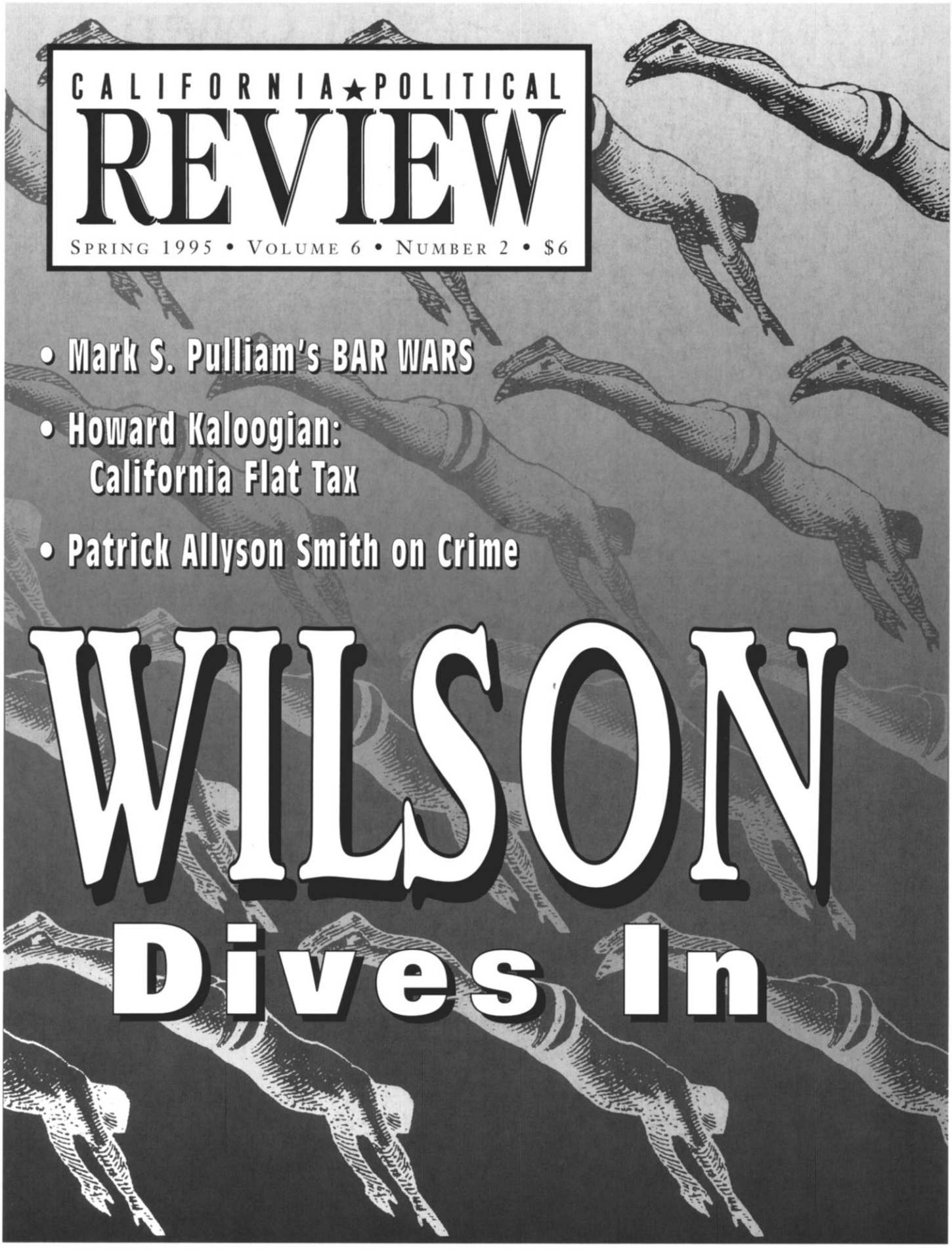


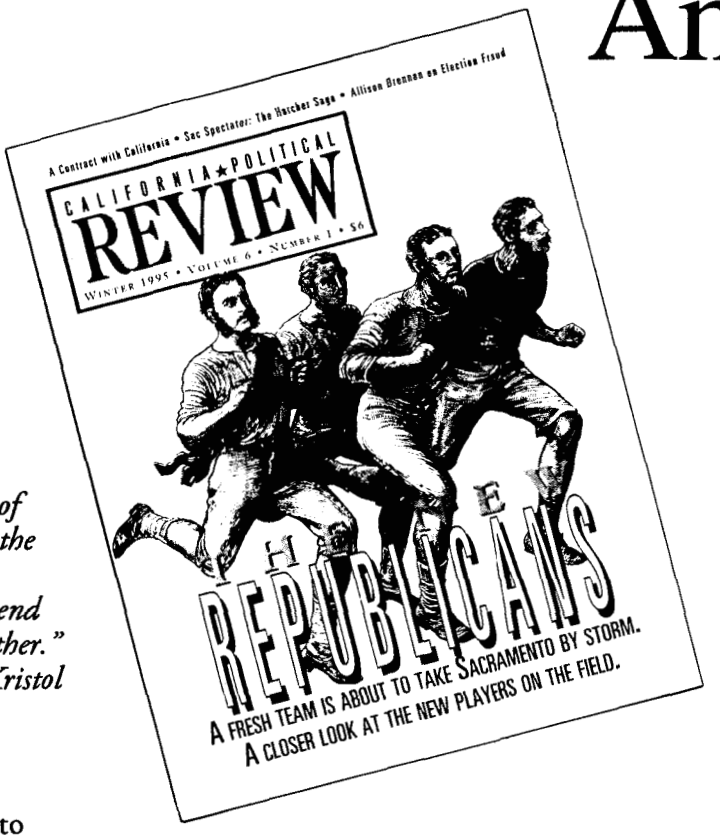
CALIFORNIA ★ POLITICAL
REVIEW
SPRING 1995 • VOLUME 6 • NUMBER 2 • $6

- Mark S. Pulliam's BAR WARS
- Howard Kaloogian: California Flat Tax
- Patrick Allyson Smith on Crime

WILSON Dives In

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

An Opening for Common Sense


A Contract with California • Sac Spectator: The Hatcher Saga • Allison Brennan on Election Fraud
CALIFORNIA★POLITICAL
REVIEW
WINTER 1995 • VOLUME 6 • NUMBER 1 • $6
REPUBLICANS
A FRESH TEAM IS ABOUT TO TAKE SACRAMENTO BY STORM.
A CLOSER LOOK AT THE NEW PLAYERS ON THE FIELD.

"The beginning of political wisdom is the recognition that liberalism is at the end of its intellectual tether."
— Irving Kristol

What used to be called "liberalism" has degenerated into reflexive attacks on everything from the family car to free speech to the Boy Scouts — a movement without a mind and with nowhere to lead. Common sense is the cure — find it in the pages of *California Political Review*. Subscribe today!

I can't tell you how impressed I am with California Political Review. — William A. Rusher

California Political Review's pages reflect the common sense conservative principles that guided the administrations of Ronald Reagan in which I was privileged to serve — a refreshing voice on California's political scene. — Hon. Edwin Meese III

California Political Review is filling a critical need in the Golden State. — Bruce Herschensohn

Send me a full year of *California Political Review* (FOUR quarterly issues *plus* FOUR issues of *CPR Update, CPR's* between issues newsletter) for just $24.95 — more than 15% off the cover price! ___ I have enclosed my check (payable to the California Public Policy Foundation) OR ___ Bill me after my first issue. If I am not satisfied, I may write "cancel" on my bill and return it within 15 days, owing nothing.

Call: 1-800-887-7676

or send this form to the address below. Thank you.

Name _____
Please Print
Address _____
City _____
State _____ Zip _____

CALIFORNIA★POLITICAL
REVIEW

Must reading for informed Conservatives

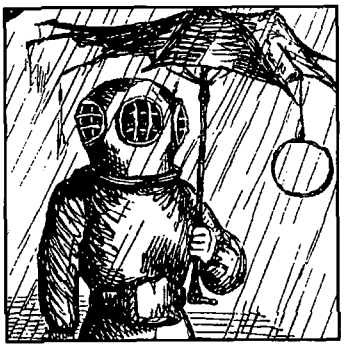
California Political Review, P.O. Box 931 Camarillo, CA 93011-0931.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CALIFORNIA★POLITICAL
REVIEW

SPRING 1995 • VOLUME 6 • NUMBER 2

11


15

19

FEATURES

COVER STORY: Pete!Pete! by John Kurzweil 15
A favorite son takes the plunge.

Bar Wars by Mark S. Pulliam 11
Yes, Virginia, there *is* a litigation crisis.

Reforming Criminal Justice by Patrick Allyson Smith 19
What to expect as the liberal grip on anti-crime policy finally loosens up. First of two parts.

ARTS & CULTURE

Criticus by G.B. Tennyson 22

Books in Review 25

- **The Death of Common Sense** by David F. Faustman
  How Law is suffocating America
- **Curing World Poverty** by Peter Hannaford
  The New Role of Property

DEPARTMENTS

Correspondence 2

Notebook 3

The Academy by Richard Ferrier 4

Sacramento Spectator 5

Capitol Watch by Howard Kaloogian 6

California Chronicles 7

Working Press by Tim W. Ferguson 9

A PUBLICATION OF THE CALIFORNIA PUBLIC POLICY FOUNDATION

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CALIFORNIA★POLITICAL
REVIEW

A PUBLICATION OF THE
CALIFORNIA PUBLIC POLICY FOUNDATION

JOHN KURZWEIL
EDITOR & PUBLISHER

JAN EDWARDS
MANAGING EDITOR

WILLIAM R. ALLEN • *ECONOMICS CORRESPONDENT*
ANNE MCFADDEN • *CALIFORNIA CHRONICLES*
TIM W. FERGUSON • *THE WORKING PRESS*
MARK S. PULLIAM • *LEGAL ISSUES CORRESPONDENT*
LEON MCKINNEY • *CPR ADMINISTRATOR, TOWN HALL*
STEVE HALL • *DESIGN EDITOR*

CONTRIBUTING EDITORS
ALLISON BRENNAN, DAN BRENNAN,
LEON MCKINNEY

GENE FOLEY • *BUSINESS MANAGER*
PAUL MCCAULEY • *BUSINESS SERVICES*
CHARLES BELL • *LEGAL ADVISOR*

EDITORIAL BOARD

JOSEPH FARAH,
PETER HANNAFORD,
DAVID HOROWITZ,
HAROLD JOHNSON,
MANUEL S. KLAUSNER,
WILLIAM RUSHER,
WILLIAM SARACINO,
G. B. TENNYSON

California Political Review is published quarterly by the California Public Policy Foundation. Send address changes, manuscripts, and Correspondence to: Editor, *California Political Review*, Post Office Box 931, Camarillo, CA 93011-0931. Unsolicited manuscripts should be accompanied by a stamped, self-addressed envelope. Signed articles express their authors' opinions and do not necessarily reflect the views of the California Public Policy Foundation which does not endorse or oppose candidates or intervene in any candidate election campaign. Unsigned editorials express the editors' opinions and not necessarily the views of the California Public Policy Foundation. Rates: $30 yearly (four issues of *California Political Review* plus fourissues of *CPR Update*); students: $15 yearly. Outside U.S. add $20 per year airmail.
California Political Review is copyright © 1995 by the California Public Policy Foundation.

California Political Review is published quarterly for $30 per year by the California Public Policy Foundation, 15456 Ventura Blvd., Suite 300, Sherman Oaks, CA 91403. Second-Class Postage Paid at Van Nuys, CA. POSTMASTER: Send address changes to *California Political Review*, P.O. Box 931 Camarillo, CA 93011-0931.

CORRESPONDENCE

THE TROUBLE WITH LAWYERS

Editor:

Mark Pulliam's "The Trouble With Lawyers" (*CPR*, Winter 1995) is, as usual, right on the point. I particularly like his bringing to light the CTLA [California Trial Lawyers Association] mailer, which I received as a San Diego lawyer. It was atrocious. I saved it so I can show it to the next batch of plaintiffs' attorneys who visit me with their "bipartisan" message! That won't be long now that I'm the vice chair of the Judiciary Committee. Keep up the great work.

Bill Morrow
Assemblyman, 73rd District

A PLAGUE OF REGISTRATION FRAUD?

Editor:

Regarding Allison Brennan's article "A Case of Mistaken Identity" (*CPR*, Winter 1995) on voter registration fraud, though I agree there are isolated instances of voter registration fraud, I take exception to her insinuation that it is at all pervasive.

As a poll worker, I have taken the Los Angeles County tour of the Registrar of Voters. The Registrar has taken every precaution to protect the integrity of the electoral process. The ballots that come in are signature verified and given the closest scrutiny. If anyone attempts to vote twice, the Registrar will catch them. Second, the Registrar takes great pains to keep the voter rolls clean. They take deceased people off the rolls on a continual basis and they monitor registration cards closely, checking to make sure that the person has not voted before. All registration cards are computerized, and the workers quickly and easily pull up the signatures for a match.

Finally, though there may be a few people who fraudulently register people to vote, the Registrar will catch the fraudulent people when the mail comes back as undeliverable. This ensures that the voter rolls are as clean as possible.

Though I am a Republican, I think that many Republicans are using scare tactics about non-citizens voting and charges of massive voter fraud to make up for our failure to do our job of getting the message out. Stick with the facts.

Adele Davidson
Whittier

Allison Brennan responds:

I would suggest that Ms. Davidson re-read "A Case of Mistaken Identity." While I agree the Registrar carefully monitors absentee ballots, if one individual is registered at two residences and sends in an absentee ballot or votes in person from those two residences, there is little chance of catching him. In addition, under Motor Voter, the Registrar is no longer allowed to purge anyone for moving.

Suppose Mr. Smith wants to vote twice after moving. He would register legitimately at his new address but would not notify anyone that he no longer lived at his old address. When a sample ballot sent to his old address was returned to the Registrar by the Post Office, his old registration would be put on "inactive" status. But on election day he could vote at his new address, then go into any other polling booth within the county where he was registered before he moved, say he lived down the street, and he would be given a provisional ballot to cast. If he cast it, he would be breaking the law, but it is highly unlikely anyone would find out or that he would be caught. Under Motor Voter, that provisional ballot must be counted, and so, of course, would the first ballot cast by Mr. Smith voting earlier in the day. Nothing in the law under Motor Voter makes it likely such double voting could or would be stopped.

Continued on page 10

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

NOTEBOOK

Status of CTA-sponsored legislation

Bill#	Author	State Council committee with Jurisdiction	Intent	Status in Legislature
AB 166	Cannella	Retirement	Legislation to extend the current bargaining window for the Medicare selection process for three more years to 1998.	Sent to Assembly Public Employees, Retirement and Social Security Committee
AB 1001	Kuehl	Civil Rights in Education	Legislation to amend the Education Code to provide for and include a ban on sexual orientation discrimination against students.	Sent to Assembly Higher Education Committee
AB 1543	McPherson	Community College Association	Legislation to back-fill shortfalls in local property tax revenues for community college districts.	Sent to Assembly Higher Education Committee
2-year bill		Financing Public Education	Legislation to sunset tax exemptions, except exemptions for dependents, disabled people, and interest on home mortgages.	

Source: *CTA Action*

"The numbers are just abysmal," said Superintendent of Public Instruction **Delaine Eastin,** reacting April 4 to the most recent reading, writing, and math test scores of California's public school fourth-, eighth-, and 10th graders. With a solid majority of these students failing to demonstrate even minimal proficiency in such essential subjects, the California Teachers Association is on maximum alert, right?, pushing hard for tough reforms to begin correcting this "abysmal" situation, yes? Well, no, not exactly. As a current update on the status of "CTA-sponsored legislation" (reproduced above from *CTA Action* publication) shows, the mammoth teachers union's 1995 agenda focuses squarely on traditional union bargaining issues, with an occasional side-foray into left-wing social activism. Teaching kids to read? Maybe next year.

Federal Judge **Mariana Pfaelzer**'s "preliminary injunction" (issued January 19 and probably destined to remain in effect for years) stopping implementation of most provisions of Proposition 187 provides a good example of how the left uses unelected judges to overturn workings of the democratic process they do not like. An initiative banning the spending of taxpayer-supplied welfare and education funds on illegal immigrants, among other things, Proposition 187 passed with 4.6 million "yes" votes — a statewide victory margin of 20 percent (of 40 percent in San Diego County, where the conditions it addresses are most pronounced) — overwhelmingly, by any measure. The merits of the initiative aside, it is a gross abuse of the judiciary and even more so of the democratic process to set this massive popular mandate aside on the preposterous grounds that the Constitution requires us to educate or sustain on welfare people whose very presence in this country violates the law.

The morning after the election, professional-activist lawyers were literally standing in line to file suits. They represented the usual anti-democratic left-wing fringe groups: the American Civil Liberties Union, the National Lawyers Guild, and the Mexican-American Legal Defense and Education Fund (MALDEF—which, for instance, shows its contempt for the will of ordinary people by actively opposing the wishes of most parents of children in California's failed bilingual education system who want their children out).

The dozen or so lawsuits filed against 187 now wend their way, in no hurry, through our Byzantine judicial process, aimed ultimately at reaching — but almost certainly not for years to come — the U.S. Supreme Court where *more* unelected judges finally will decide for us whether our democracy shall be allowed to function. It is only fitting that this farcical "legal" proceeding, which demonstrates unmitigated contempt for the rule of law, should be carried forward primarily by stalwarts of what still unfathomably gets by calling itself the "Democratic" party.

CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE ACADEMY

Low Blows For Racial Preference

RICHARD FERRIER

When UCLA's Charles Young decided to use his office to attack the principle of a race and gender neutral university, his first blows landed squarely below the belt. Ward Connerly, the regent who was bold enough to point out the scandalous preferences at UC Berkeley, was compared by Young to North Carolina's Jesse Helms: university-speak for "Connerly is a stooge for a racist."

Connerly has drawn Young's ire because he opposes race and gender preferences on all UC campuses. The regent was among the first to declare openly that the Affirmative Action Emperor had no clothes, long before Governer Wilson had made up his mind or taken a public stance on the issue. I attended the August 1994 Assembly Judiciary Committee hearing at which Connerly told a shocked and angry Assemblywoman Marguerite Archie-Hudson that UC's admissions policies, which treated race as a component of merit, were just plain wrong. I watched as Connerly, who had *no* support from the governor, was pressured by old friends and associates not to testify, not to press the case against preferences for his race. For this display of integrity, Chancellor Young has dubbed Connerly "Pete Wilson's mouth piece."

Young has since apologized for his slurs against Connerly, and the tone of his latest remarks is meliorative. The chancellor of UCLA now defends, more or less openly, race and gender preferences, but will not impugn the motives of their critics. It is to be hoped that all parties in the coming debate show similar restraint.

UCLA will provide anyone who asks with copies of Young's speech before the academic senate. Anyone who reads it can see that preferred groups have lower retention and graduation rates; that whites are admitted in numbers below their proportion in the UC eligible high school graduate pool; that UCLA takes the *Bakke* case to mean that race (and gender) can be a factor in hiring and admissions, and that UCLA holds that some racial and ethnic mix — what one and why Young doesn't say — is essential to the quality of the education its students receive since they are entering a "multi-cultural" society. Finally, UCLA takes these positions without claiming to provide remedy for any acknowledged past discrimination by the University.

Indeed, in the case of female faculty, UCLA grants preferences *because* young female Ph.D.s are in such great demand elsewhere. The same, as is widely known, is true of high quality minority Ph.D.s, who are the academic equivalent of trophy wives for our diversity-infatuated chancellors. In other words, UCLA puts hurdles in the way of white male Ph.D.s because a color- and gender-blind appointment policy would place the University at a competitive disadvantage in auction for preferred classes of people whose increased numbers on staff is an explicit goal of the UC system.

Chancellor Young defends these numerical goals as necessary "to educate the next generation of leaders for a multi-cultural society," and to produce "professionals who can serve

Continued on page 6

Dr. Richard Ferrier is a tutor at Thomas Aquinas College in Santa Paula and an authorized spokesman for the California Civil Rights Initiative.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

SACRAMENTO SPECTATOR

The failure of Republican Bob Margett to win a majority — and thereby be elected outright — in the special election April 11 to fill Senator Dick Mountjoy's Assembly seat probably insures that Willie Brown will be Assembly Speaker into the fall. I say "probably" in light of a late news flash, just arrived: a recall effort may soon qualify that could remove Willie Brown Democrat Mike Machado from the Assembly by mid- or late-summer. (Machado's '94 re-election campaign rang with declarations of "independence" — which, as Mike intended they should, his pleased Stockton-area constituents understood to mean independence from Speaker Brown. The recall was launched when, defying November's statewide mandate for Republican control of the Assembly, Machado cast his deciding vote to make Brown speaker once more.)

But, a Machado recall notwithstanding, the April results forcing Margett into a run-off are crucial. Why? The math is simple. Currently 39 Republicans sit in the state Assembly. An outright Margett victory — though he did finish first and will undoubtedly win the runoff against a weak Democrat — on April 11 would have created 40 GOP Assembly members. Assemblyman Ross Johnson will be elected to Marian Bergeson's state Senate seat May 9, one week before Paul Horcher's May 16 recall.

Under the Democrats' own rules, a member has 15 days after election to another office to remain in the Assembly. Ross Johnson could stay in the Assembly until May 24 — *ergo* creating an 8-day window during which Assembly Republicans would total the magic number of 41 (enough to bounce Willie for good).

Margett, endorsed and heavily supported by Mountjoy, waged a strong campaign, but so too did other Republicans. Everyone knew, of course, that these other fine, loyal Republicans had no chance of actually beating Margett, and every chance of doing exactly what they did — deny Margett an outright victory, deny the Assembly GOP an early chance to get back to 41, and insure Willie Brown's continued mastery of the lower house, but that seemed not to matter to them. One candidate in particular, Ginny Joyce, actually swears she is a rock-ribbed conservative. If she is, she's a particularly dense rock-ribbed conservative. Her pig-headedness has had consequences far beyond the confines of her Assembly district. Willie Brown sends his thanks, Ginny.

But wait, there's more ominous news. The Democrats, to nobody's surprise, are pulling out all the stops to save Paul Horcher. Willie Brown has cranked up his money machine and will spend at least $1 million to save his GOP prostitute. Brown has union goons — er, members — walking door-to-door in Horcher's district ***every day.*** They are telling outright lies at the doorstep, depending on what the voter tells them. To Republicans these worthies claim to be loyal GOP activists out to save a good "independent" GOP vote in Horcher. To Democrats these walkers become dedicated Democrat workers out to stymie the evil Republicans. Decline-To-State voters are told the walkers belong to neither party but are part of an "independent" committee trying to save Horcher's "strong independent voice" — yes, these folks say Horcher is independent ***even of Willie Brown!***

All rather shameless, but not necessarily without effect. A million dollars in a low-turnout special allows *a lot* of voter contact, truthful or otherwise. On the bright side, because turnout *will* be low, if the GOP can get the 20,000 voters who signed the recall actually to cast ballots, Horcher should be cooked, Willie goons or no Willie goons. Unfortunately, the bottom line is that because Margett won't be seated in the Assembly until well after Ross Johnson leaves for the Senate, the GOP won't have 41 members until July at the earliest, or September depending on how the Machado recall proceeds and if *another* run-off is necessary to fill Johnson's seat. The timing is such that the issue could drag on until after the Assembly recesses for the year — meaning that January 1, 1996, Willie Lewis Brown, Jr., could still be speaker. The silver lining? Evidently, news of a possible Machado recall is giving Willie fits — uneasy lies the head that wears the crown!

– A.P.C.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

diverse populations." The implied premise is that whites can better serve whites, Asians, Asians, women, women, and so forth.

What, I wonder, would be the chancellor's response to the following not implausible scenario. Suppose a religious group, say, Jews or Presbyterians, had been consistently "over-represented" at UCLA, while others, say, Baptists or Muslims, had been "under-represented." Let the latter be the object of some bigotry for their views on abortion, family relations, or scriptural authority. UCLA serves all of society, including unfashionable believers (who pay taxes like anyone else), and the multi-cultural society of the 21st century will include millions of Baptists and Muslims. How would it not be "necessary," on Young's reasoning, to consider Baptist or Muslim faith a salutary factor in admissions or "necessary" to "often waive search requirements" for these groups, as Young admits is UCLA's practice to allow it to hire women candidates "more quickly." Of course, no one from the secular left to the religious right would countenance explicit religious quotas, even to correct admitted past discrimination. Neither do ordinary Americans accept gender or race preferences. Reverse discrimination is the cherished scheme of lawyers, corporate elites, and educationists who have a peculiar ability to see the justice in inequality.

Young told the academic senate that "we've succeeded in developing practices ... to produce leaders for a multi-cultural society, while not engaging in reverse discrimination." One wonders whether any member of that learned body asked him what argument he would give to show that preferring A over B differs from discriminating against B. It is as much a logical impossibility for preferences to exist without discrimination as it is for "all the children to be above average." Charles Young is the Senior Chancellor of the University of California, not the principal of Lake Woebegone High School. Unfortunately, his recent speech doesn't show it.

CPR

CAPITOL WATCH

A Flat Tax:
Defanging Class Warfare

HOWARD KALOOGIAN

During a recent discussion regarding my California Flat Rate Tax Amendment with Assembly colleagues, I ran across a Democrat who numbers himself among flat tax supporters. He said he would favor such a proposal — if it contained, in his words, "top income brackets to prevent an unfair advantage for the wealthy." Now, perhaps you are thinking the Legislature should provide on-the-job training in economics for such "real-world challenged" individuals. That would *begin* to address his lack of understanding, but my Democrat friend's reaction to the flat tax initiative marks a misapprehension about more than economics. His more serious problem is about politics: about the difference between good and bad government. Inciting class warfare, for instance, in the view of most Californians, would fall under the heading of *bad* government. But not in the view of many Democrat office holders. On the contrary, whipping up class envy and suspicion and distrust among society's various social, economic, and ethnic divisions and then exploiting it to gain power is the core of their politics. It provides motivation for them and their troops; it gives direction to their strategy and shapes their tactics. For many liberals, tax policy is but one of many weapons to be used in waging the class warfare that perpetuates their hold on power.

The current tax system, for instance, which is mainly a liberal production, lets middle income folks watch government handouts, financed primarily by their taxes, going to those who earn less than they do, while those who earn more take advantage of tax breaks largely out of their reach. But while most of us would see this situation as an unhealthy breeding ground for dissention and trouble, liberals view it as ripe with promise. Ignoring the real culprit — the complex, regressive tax codes — liberals portray the wealthy as high stakes swindlers at the economic poker table, encouraging middle- and lower-income earners to feel betrayed and cheated while higher-income people feel threatened for no better reason than that they have succeeded in being productive and in contributing something to the economy. The stage is set for another whooping good campaign designed not to improve matters in the real world (that would kill the goose laying the golden eggs), but to provide class envy liberal politicians an easy slide back into office on promises to correct the very sources of friction they really want only to aggravate and enflame.

Continued on page 8

Howard Kaloogian represents the North San Diego County 74th Assembly District and serves as a member of the Revenue and Taxation and chairman of Public Employees committees.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CALIFORNIA CHRONICLES

CONSERVATIVES SET DEMS AGENDA

The extent to which conservative principles control the agenda for both parties is evident not only in Congress. California state Democrats spent most of their recent convention absorbed with the question: what should we do about the California Civil Rights Initiative? Assembly Speaker (for a while anyway) Willie Brown, urging a "call them all racists" hard line, competed with President Bill Clinton's appeal for coolly-reasoned waffling. The whole business conjured images from a few years back of Castro's sneering rejection of Gorbachev's calls for Glasnost. The left so reflexively assumes its own moral and intellectual superiority and the corruption and stupidity of its opposition that its minions generally panic when history turns against them. Today's news of conservative activity is that history, for the moment anyway, is with us, so much so that it takes in even the nerve centers of the political left.

MOVIN' ON UP

Kevin Teasley's ***Report Card,*** digging into California Teachers Association tax records, found that in 1993 CTA's top four executives alone received a whopping $570,320 in total salaries and benefits. "CTA Executive Director Ralph J. Flynn was the highest paid union employee," according to ***Report Card,*** "receiving an annual salary of $183,639.33 and a benefits package totaling $46,183.70." California's governor, in comparison, is paid $114,000. Not surprisingly, ***Report Card*** scooped both the education press and the mainstream media with this story. Contact: Kevin Teasley, director, Education Project, Center for the Study of Popular Culture, 9911 W. Pico Blvd #1290, Los Angeles, CA 90035, 310/843-3699, FAX: 310/843-3692.

California Chronicles welcomes information about conservative groups, publications and activities. News of Liberal fraud, fatousness and foibles especially appreciated. Contact : Anne McFadden, P.O. Box 783, Santa Monica, CA 90406-0783

PRO-FAMILY 'EXTREMISM'

Placing House Republicans' pro-family tax cuts (which Bill Clinton calls "extremist") into perspective, a Heritage Foundation Backgrounder ("Reducing the Crushing Tax Burden on America's Families") reports:

- that between 1950 and 1994, the federal government's tax take from average American families with children increased from two to 24.5 percent of their income,
- that this increase represents a cash loss for average families of $10,060 per year, an amount that is more than the cost of the average home mortgage,
- that adding state and local taxes increases government's share to 37.6 percent of average family income,
- that two-thirds of working wives' income goes to the federal government, and that if 1950 levels were restored, "the average employed mother in a two-parent family could leave the labor force entirely and the family would see only a modest drop" in its post-tax income, and
- the average per capita after-tax income of families with children now makes them America's lowest income group, below the elderly, single persons, and couples without children.

Contact: The Heritage Foundation, 214 Massachusetts Ave., N.E., Washington, D.C. 20002, 202/546-4400.

CONSERVATIVE CONFERENCE

Bruce Herschensohn, Jim Brulte, and Bill Leonard will be among speakers at The Inland Empire Conservative Coalition's third Annual Conservative Conference, May 13 at San Bernardino's Hilton hotel. Contact: IECC, 5005 La Mart Dr., Riverside, CA 92507, or call: Shirlee Pigeon, 909/686-7575.

CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

I propose the California Flat Tax Amendment for the November 1996 ballot to give Californians an opportunity to abolish the regressive current tax structure and eliminate the specter of class warfare. It would sweep away the entire California income tax code, repeal all property and sales taxes, and replace them with a fair, simple, efficient tax of 5.9 percent on all personal income. It would also replace all current corporate taxation with a single across-the-board income tax at a flat rate, effectively producing a statewide personal and corporate rate of 10.7 percent that would produce the same level of revenues the state now receives. The amendment retains three current personal exemptions: deductions for children, home mortgage interest payments, and charitable contributions. Taxpayers will fill out a postcard-sized form stating their income, subtracting exemptions, and paying a percentage of adjusted income equal to everyone else's — except those under the poverty line. They will pay nothing until they pull themselves above the federal poverty level.

The flat rate tax is about restoring sanity to our economy

Will that be fair? Yes, more fair than the current system by far. At a flat rate, the more you earn and the more you have, the more you pay. But the labyrinth of incoherent, special-interest serving, economy distorting, and almost invariably inequitable exceptions and loopholes and special-case provisions will be gone. There will be no more guessing what your tax bill might be if you marry, or earn a raise, or move. There will be no more wondering if you should buy another IRA or shelve more savings into "Deferred Comp." You will no longer face severe tax punishment for improving your economic condition and making contributions to the economy that benefit everyone. The tax code would be about financing government, its proper function, and would be out of the business of manipulating our productive lives and causing friction in order to elect liberal politicians to office.

"The most immoral act a society can perpetrate on its citizenry," said Nobel prize winning economist Arthur Laffer, who developed this amendment, "is to enact policies that have the effect of destroying the production base from whence all benefits flow." But that's just what our current tax structure does. It penalizes marriage and raising a family. It misdirects incalculable dollars into shelters and away from more productive investments that would, under a flat tax, receive the funds and flourish, creating jobs and a broader tax base, not to mention contributing to raising everyone's morale and optimism about California's future. That last possibility sends shivers down liberal spines. What howling grievances could then be used to scare people into voting the libs more power, higher taxes, and greater control? What, indeed? — this is surely among the best arguments for a flat tax.

But in addition, a flat tax disposes of another profoundly corruptive force in politics: the millions of dollars spent lobbying politicians and bureaucrats to influence tax-related rules and legislation. The only real losers under the flat tax will be lobbyists and liberals. Yes, accountants and lawyers would also have to find productive work, leaving behind careers looking for tax loopholes. But eliminating the costs to society in lost productivity caused by wasting so much human energy complying with and seeking avoidance of the tax code will be worth it. Anyway, it will likely raise these folks' self-esteem, something even John Vasconcellos should like. Once they adjust to the new circumstances, tax accountants will enjoy employing their skills in the more practical and productive jobs the flat tax economic boom will create for them.

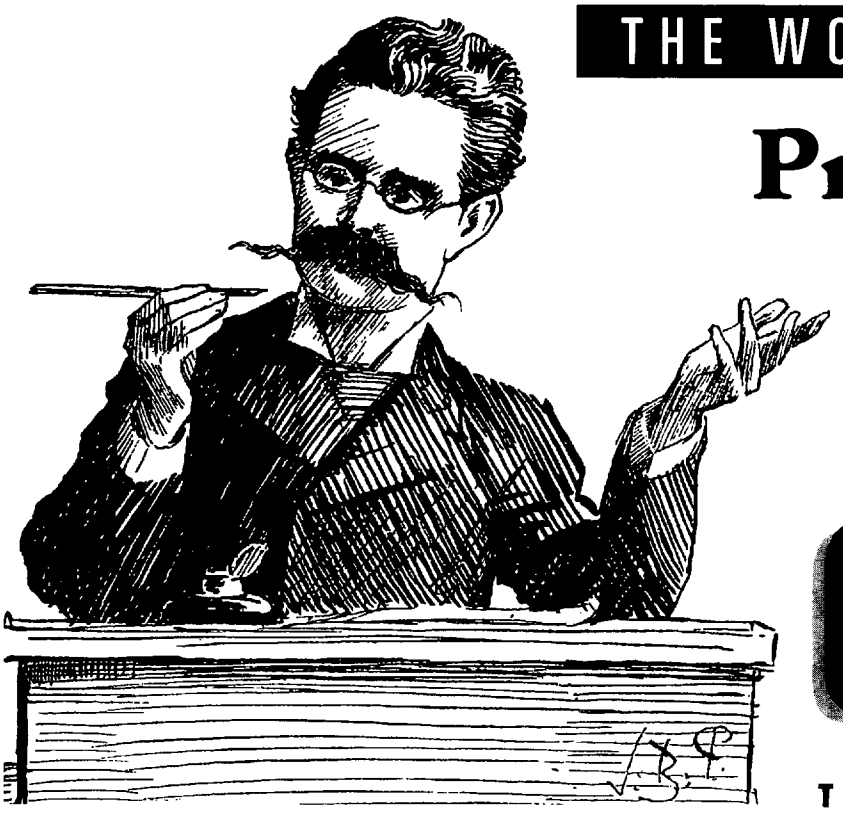
The flat tax will stimulate investments from other countries as well as the return of dollars currently held in foreign lands to avoid taxation. It will entice recently-fled businesses to return and new businesses to come here. California's growing economy will expand the tax base, allowing a reduction in the flat rate without reducing the amount of money going to government. Of course, some politicians will prefer to use the improved economy as an excuse to grab more of the taxpayers' money. That's why my initiative includes a mechanism that will automatically ratchet tax rates down when government revenues grow beyond their current level. It guarantees that the benefits of the peoples' hard, productive work remain where they belong — with the people.

Finally, the removal of tax bias against families will help repair our scandalously tattered social fabric, an improvement our state needs above all others.

The flat rate tax is about restoring sanity to our economy and to how we finance government. It will remove the class warfare card from the political deck making our politics more rational and our policies more just. It has something for everybody, except liberal politicians.

CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



Predictably Left at The Chron

TIM W. FERGUSON

Poor Alan Janson of the *South Bay Daily Breeze*, a Copley paper in Los Angeles County. He wrote an uplifting feature about the propensity of the area's immigrant groups to favor various ventures: Cambodians/donuts, Koreans/liquor stores, Pakistanis/convenience marts, and so on. If Mr. Janson harbors ambitions to advance to the *San Francisco Chronicle*, he'd better do something about his political incorrectness. You see, the *Chron* believes that anything smacking of stereotypes is abhorrent, however anchored in truth.

When Assemblyman Bernie Richter (R-Chico) ventured onto one of the network morning shows to argue with Willie Brown about racial preferences, he was asked why executive jobs were 91 percent filled by white men. He commenced to draw roughly from work by Professor Thomas Sowell showing a marked tendency of group members to specialize in particular livelihoods.

Tim W. Ferguson is California Political Review's *press critic.*

Richter didn't have the best platform for his argument — it's hard to deny that executive promotions are influenced by old-boy networks — but that wasn't what got him in trouble. First, he noted a paucity of African-American math Ph.D.s and said it had to do with bad inner-city schools, not discrimination. Then, further explaining disproportionality, he referred to a preponderance of Jews in the garment industry, Italian-Americans in wine making, and Irish-Americans as tavern owners. Basically, he said, those are cultural dispositions.

The front-page *Chronicle* story five days later by political editor Susan Yoachum, "Affirmative Action Foe Defends Ethnic Remarks," didn't examine the accuracy of his observations but treated them as if some bigot had popped off and now was digging himself in deeper. (The crosstown *Examiner*, when it got around to making hay of the matter a few days later, noted that Hillary Clinton had seen the show and thought Richter's candor could be exploited by opponents of the California Civil Rights Initiative — CCRI — which the assemblyman has sponsored.)

Meanwhile, the San Francisco papers assumed their customary prostrate position *vis à vis* Brown. Yoachum's story said he "pounced on Richter's remarks" by refuting the notion that "there's something genetically different about people of color being able to qualify in certain areas" (which is not what Richter suggested) and by stating that people get Ph.D.s because they have the right connections. He didn't acknowledge merit as a factor, but, because he is Willie Brown, no one "pounced" on that.

Anyway, the *Chronicle*, which is now predictably left and fervently pro-preferences, followed on with a cartoon and editorial depicting Richter as a yahoo uttering "barstool calumny." This only went to show that a record of caring about the condition of minorities, which Richter has, counts for little where one of the great taboos of American political debate is concerned. A white man must

Continued on page 10

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

walk on eggshells when discussing different patterns among racial or ethnic groups, so most choose to avoid the topic in public. Knee-jerk organs such as the *Chron* keep honest debate in the shadows.

As discussion continues on CCRI (which Democrats in the Legislature have chosen to force onto petitions for a November 1996 vote), it will be painful to read the attempts in the liberal papers to explain how preferences are at the same time necessary and not harmful to anyone. If they are necessary, that means they change an outcome that would otherwise occur. If they do that in a world of scarcity, then some people (white males, most often) must lose out. A professor of logic might be asked to analyze these editorials, assuming he (she?) held a chair on the basis of reasoning, not race.

So the Eastern press is getting its wish and Pete Wilson is headed toward a presidential bid. He's all yours, guys and gals.

Various media assured us that Pete is Mr. Bigfoot in the eyes of his prospective competitors and a favorite of Bill Weld and perhaps other fellow guys of the social-liberal persuasion. Beyond that, we never saw much documentation of a clamor for this candidacy outside of the Horseshoe, Pete-the-Marine's Capitol bunker ringed with aides dreaming of a cross-country march from Cowtown to Georgetown.

Finally, on March 16, George Skelton of the *Los Angeles Times*, whose columns run hot and cold on the governor depending on the moon or when he last got an interview, noted that maybe, just maybe, Pete could lose his own state's primary. The assumption that candidate Wilson has 163 delegates in his pocket from the winner-take-all event is the sugar from which all the cotton candy has been spun around his bid. Now, I have been very wrong about the governor's election chances once before, but it does seem reasonable to suspect, based on his past difficulties with conservatives who dominate this state's GOP primaries, that he will pull far less than 50 percent. If the field is not too fragmented a year from now, that would give somebody a good shot at beating him. And if that happened, California would be remembered as a key battleground of the 1996 nomination race after all, with the punctured ruins of the Wilson dirigible strewn all about.

"I will serve out my term and not seek higher office" is probably the oldest lie in politics, but the hacks in the press corps expend quite an effort to get people such as Pete Wilson to mouth it. So you'd think there'd be a bit of indignation when they learn that, sure enough, they'd been sold a bill of goods again. Maybe, like a two-bit floozie who wakes up to an empty bed, they resignedly figured it's the price of getting next to a man on the make. Of course, Bill Clinton told the same fib to Arkansans in 1990, and for that matter, Ronald Reagan denied his 1968 favorite-son candidacy was anything but. His eventual swing at Richard Nixon that year took place in the fevered atmosphere of a party convention, however, 18 months into his term. By contrast, Wilson was barely two months past his inauguration by the time he was pulling out the stops.

But you can understand the "duty." Here is a man who has succeeded in jumping on three bandwagons — Three Strikes, Proposition 187, and CCRI. He avoided a train wreck on school vouchers (never mind those test scores that remain in the sewer). After a few years of missing by a mile, his revenue aides are now close with their projections. He vetoes many bills that need it, and most times the paperwork isn't left on the copying machine. He hasn't called his troops in the Assembly an obscene name in nearly four years. This is leadership Washington has been waiting for.

If Wilson genuinely has turned conservative, that won't endear him to the state press, which as spring sprung summoned its repressed memory and was beginning to hammer him pretty hard on that promise he made. Maybe the scribes will soon be asking hard questions about where, with a $1,000 federal contribution limit, he will raise the $18 million or more he's assumed to have available to him for the presidential race. If that money doesn't show up, we won't need to wait for the California primary to welcome Pete back to take up that bold agenda he talked up in January. If he's broke by then, somebody should pop for the call to let Abe Rosenthal and the guv's other friends at the *New York Times* know he got home.

CPR

Correspondence

Continued from page 2

Although Motor Voter is not yet enacted in California, the LA County Registrar is preparing to enact it; they are NOT purging anyone from the rolls for moving unless they leave the county or ask that their old registration be cancelled.

In any case, the article was not about voter fraud but about registration fraud, a serious problem in areas the Democrats targeted. Look at the voter rolls to see for yourself.

Ms. Davidson raises a valid point. Before Motor Voter, LA's Registrar did a good job removing the deadwood. Motor Voter's impact on registration and our electoral process offers ample material for possible future articles.

CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Yes, Virginia, there *is* a litigation crisis.

Bar Wars

MARK S. PULLIAM

Two important struggles are being fought in California's legal community, both nearly invisible to the general public. The first battle, not widely known (even within the legal profession) is over the recommendation of a state Bar commission that has turned into a referendum on the continued existence of a mandatory Bar. The second conflict is a misleading public relations campaign being waged by the influential plaintiffs' bar against the cause of civil justice reform. The message of the newly-renamed "Consumer Attorneys of California" (formerly the California Trial Lawyers Association, or CTLA — for details, see "The Problem With Lawyers," *CPR*, Winter 1995): California doesn't need civil justice reform — sometimes referred to in a more narrow sense as "tort reform" — because the number of lawsuits is declining. That message, like CTLA's recent name change, is calculated to mislead the public.

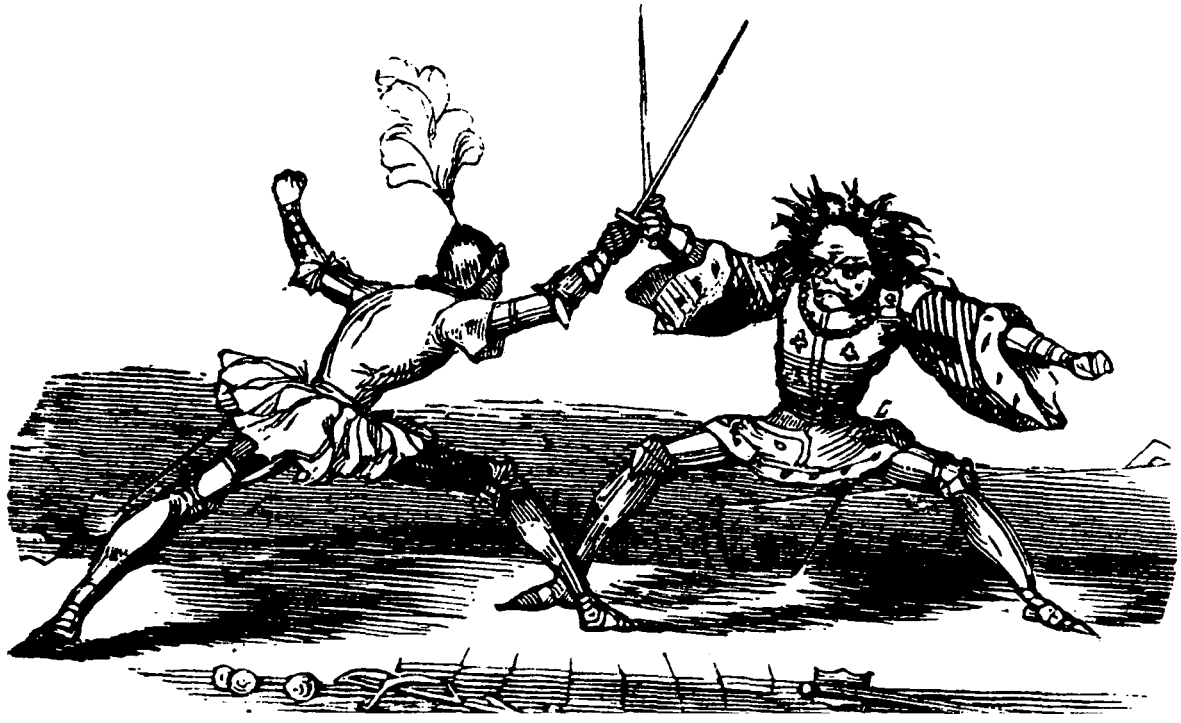
What these two "bar wars" have in common is their attempt to maintain the *status quo* — a dysfunctional legal system that allows a privileged few to wield disproportionate political power and economic influence. If the current leadership of the state Bar and the relative handful of contingent fee plaintiffs' lawyers who comprise the CTLA are successful in the "bar wars" now underway, the battlefield will eventually move to either the Legislature or the ballot box. Critics of the current system are prepared to fight as long as it takes, and with initiative measures if necessary, to achieve reform.

Mark S. Pulliam, CPR's legal issues correspondent, is an attorney in private practice in San Diego.

BAR WAR I.

In 1993, when the Board of Governors of the state Bar of California created the "Commission on the Future of the Legal Profession and the State Bar" and appointed as its chairman an insider who had previously served as vice president of the state Bar, the Commission had all the makings of a rubber stamp. After all, the then-president of the state Bar, Harvey Saferstein (he's the one who wanted to make it illegal to tell lawyer jokes by labeling them "hate crimes") was allowed to appoint 18 of the Commission's 30 members. (The governor appointed six members, and the Assembly speaker and Senate president pro tem each appointed three.) While the Commission's mandate was to make recommendations concerning the future of the legal profession and whether all lawyers should be forced to belong to the state Bar (and, more importantly, to support it financially with involuntary dues of up to $478 annually), it was widely expected that the Commission — packed as it was by representatives of the *status quo* — would orchestrate a whitewash. So disenamored are

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



It may be up to the Legislature to defund and disempower this monopolistic special interest group.

many lawyers of the current system that the Commission's recommendation to maintain a mandatory state Bar passed by a badly-split vote of 13 to 8. In other words, not even all the hand-picked Commission members could stomach preserving the state Bar in its current form. (Imagine the results if this were put to a vote of Bar members, which of course the Bar leadership refuses to do.)

The Commission's "Summary and Highlights of Key Recommendations," issued in December 1994, called the minority view "strong criticism of the present state Bar as: (1) too big and overly bureaucratic; (2) too costly and not providing tangible value; (3) consistently insensitive to rank-and-file lawyers' concerns; (4) inconsiderate in its attitude towards members; (5) fostering controversy rather than peace; and (6) ineffective at protecting the reputation and integrity of lawyers." Other than that, they thought the Bar was doing fine.

The Board of Governors still must act on the Commission's recommendations. If, as expected, the Board disregards the views of the nearly 40 percent of the Commission's voting members who dissented, it may be up to the Legislature to defund and disempower this monopolistic special interest group. Why is it important to make membership in the state Bar voluntary? Attorney admissions and discipline would become a government responsibility, funded by "user fees," like occupational licensure for other professions. The activities of the Bar (and in all likelihood its $80 million annual budget) would be diminished. (If you have any doubts regarding its agenda, consider the state Bar's record of advocating gun control, a nuclear weapons freeze, and affirmative action for gay and lesbian attorneys, and of opposition to legislation limiting federal court jurisdiction over public school prayer and busing, among other political positions, or the current ABA president's denunciation of supporters of the Contract With America as "reptilian bastards.") Lawyers already have too much influence in society. Bar associations are nothing but trade unions for lawyers. Mandatory membership and compulsory dues make this legal guild more powerful, at the expense of the rest of society. A 1990 report on the ABA explained the self-interest of lawyers: "[B]ig government is good for lawyers .... Life and business are made more complicated by, and litigation is always spawned by, the proliferation of laws and rules that everyone must adjust to." As the Commission's recommendations have garnered virtually no attention in the mainstream media, *CPR* will continue to follow this important story.

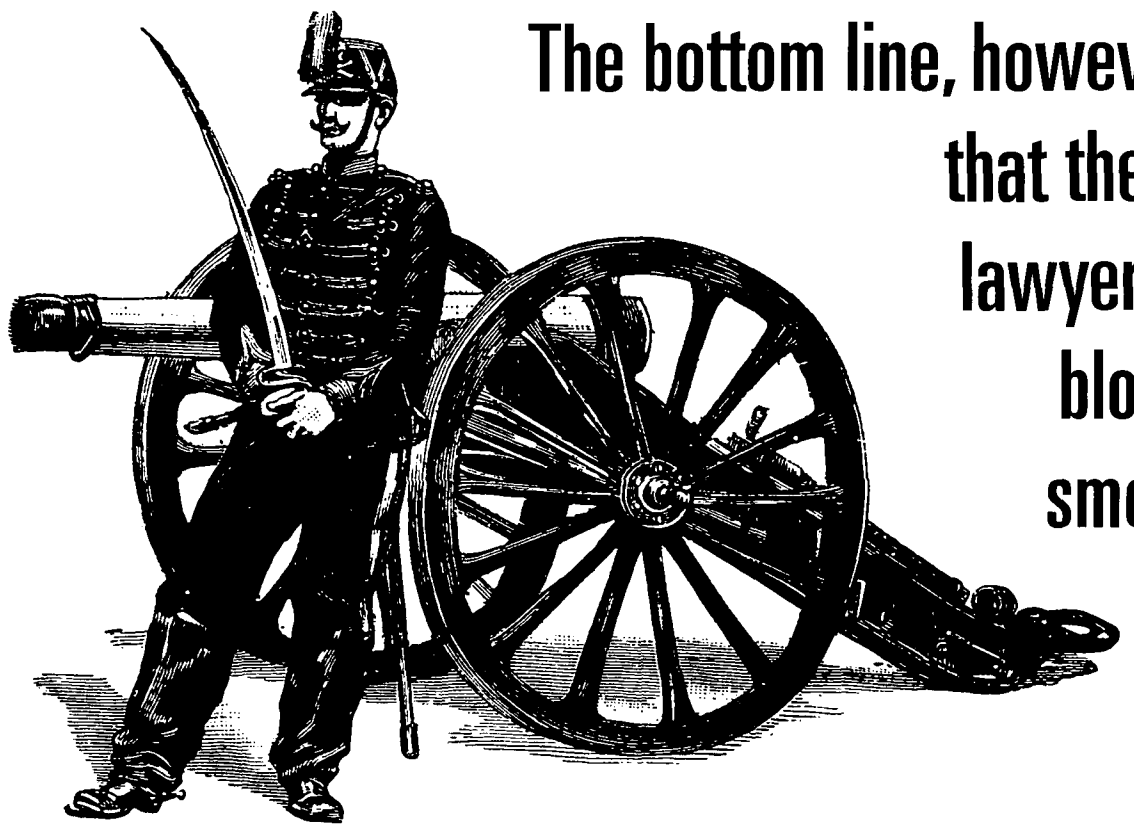
LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

BAR WAR II.

Despite the scholarship of Yale Law School Professor George Priest, Peter Huber, and Walter Olson (the latter two of whom are affiliated with the Manhattan Institute) regarding our civil justice system, the results of every local, California, or national public opinion poll on the subject, and the lopsided passage in the House of Representatives of the portions of the Contract With America dealing with the legal system, the contingent fee plaintiffs' trial bar (now masquerading as "consumer attorneys") is trying to convince the public that, if anything, there are not *enough* lawsuits to deter wrongdoing by the business community (who are all "corporate criminals" in CTLA's view). With the aid of a sympathetic media, the trial lawyers insist the number of lawsuits is declining, and there is no empirical basis for civil justice reform such as that being proposed by the governor and the House GOP. Articles written by trial lawyers or their sympathizers are appearing with headlines like "Crisis? What Crisis?" and "The Litigation Explosion: The Big Lie." The plaintiffs' bar claims that so-called "tort" cases — suits involving personal injury claims — represent a small and declining number of civil filings, and that the increase in total number of lawsuits is largely attributable to an increase in child support enforcement actions.

This is a complex subject, and it is hardly possible to do it justice in a short space. The bottom line, however, is that the trial lawyers are blowing smoke, for two reasons. First, several of the current system's essential defects do not correspondend or fluctuate in seriousness with the *number* of suits: the inefficiency, for instance, of that system (which delivers to injured parties between 37 and 50 cents per dollar spent on litigation, depending on the type of case), its high and growing cost ($131 billion annually nationwide in *direct* costs, and by some estimates $300 billion per year in direct *and indirect* costs), and its unpredictable nature (McDonald's coffee verdict is just one example.) One reason for the disconnect with the number of suits filed is that civil lawsuits have become much more complex in recent years. The traditional staples of the plaintiffs' bar — slip-and-fall cases, auto accidents, dog bites, and defectively made or adulterated products (such as exploding soda bottles) — have been supplanted by class actions, mass torts such as asbestos exposure, product liability (with the focus on defective *design*), construction defect, wrongful termination and so forth. Trial lawyer researcher Marc Galanter concedes that "We need useful indicators of what's going on in the civil justice system, and not just filing data. Filings are not terribly useful. The categories are too big, and there isn't much data about what happens after a case gets to court and who's bringing it."

Continued on page 14



The bottom line, however, is that the trial lawyers are blowing smoke...

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

I say the trial lawyers are blowing smoke, secondly, because, even with these caveats, the plaintiffs' bar interpretation of the statistical data on lawsuits filed in California courts is incomplete, inaccurate, and misleading. The most recent data from the Judicial Council of California (released February 27) show the total number of civil cases filed in Superior Court *increased* from fiscal year 1992-1993's 712,006 to 729,372 during the 1993-1994 fiscal year. They also show the number of lawsuits filed by one party against another for damages (as opposed to probate cases, family law, eminent domain, and applications for other forms of relief) *increased* to 211,468 from 208,655 in 1992-1993. I concede that the total number of civil filings is not the relevant figure (although they, too, consume costly judicial resources). The relevant figure is the total number of civil lawsuits seeking the payment of money damages. This is the sum of three categories reported separately by the Judicial Council; motor vehicle cases, non-auto personal injury cases, and "other civil complaints." The data from the 1993-1994 Judicial Council Annual Data Reference (pp. 16-19, 22-23) is summarized below:

	1992-1993	1993-1994
Motor vehicle, personal injury and property damages (i.e., auto accidents.)	55,487	49,523
Other personal injury, death, and property damage (i.e., non-auto personal injury.)	35,224	34,198
Other civil complaints (i.e., all other civil cases.)	117,944	127,747
TOTAL	208,655	211,468

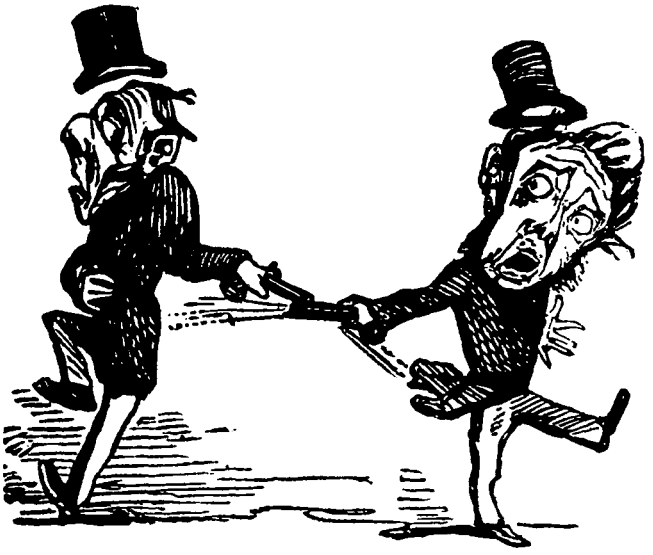
(These numbers do not include Municipal Court filings, federal court filings, insurance claims paid without litigation, or threatened lawsuits resolved by arbitration, mediation, or settlement prior to the commencement of a lawsuit. Thus, the total volume of litigation, actual or threatened, is almost certainly increasing at an even higher rate.) The plaintiffs' bar's latest media blitz simply ignores (or mischaracterizes) the largest and fastest growing of the three categories, "other civil complaints." Even though the categories of auto cases and non-auto personal injury cases (such as slip-and-falls) *declined* from '92-'93 to '93-'94, the 8 percent *increase* in "other civil complaints" more than offset the decline in the other categories. "Other civil complaints" is a broad category that includes lawsuits such as general negligence, fraud, wrongful termination, insurance bad faith, defamation, product liability, construction defect, and many others. These are precisely the types of cases, rather than the routine auto accident or slip-and-fall, that expose California businesses to staggering liability and legal expenses, and unpredictable jury verdicts. These lawsuits *increased* 8 percent last year.

Statistics don't tell the whole story, particularly case filing data. Nevertheless, the most recent data *refute* the plaintiffs' bar claim that the number of lawsuits is declining. Once again, the plaintiffs' bar is trying to confuse the public and hide the facts.

One fact is clear. California businesses are drowning in a quagmire of laws, regulations, and lawsuits. The only group benefitting from this is lawyers. The Census Bureau found that California lawyers were paid $16.3 *billion* in legal fees in 1992. None of the other 49 states was even close. To evaluate the enormousness of the sums involved, consider that California lawyers cost more than all of the following goods and services combined: auto repairs, funerals, tanning salons, one-hour photo finishing, video-tape rentals, detectives and armored guards, bug exterminators, laundry, haircuts, day care, shoe repair, and septic tank cleaning. Does anyone believe lawyers are worth more than all of these other goods and services?

The stakes are high in the bar wars. The goal must be to diminish the power and influence of lawyers in our society. The abolition of the mandatory state Bar would be a start. Passage of the governor's civil justice reform package would also help greatly. As columnist Robert J. Samuelson wrote recently in *Newsweek*, "Lawyers pander to the American illusion that all problems have legal solutions, and the result is a society that requires lawyers to do almost anything." We cannot claim to be free if we are governed by an elite legal plutocracy rather than governing ourselves. In the bar wars, if the *status quo* prevails, we all lose.

CPR



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

COVER STORY

A Favorite Son Takes the Plunge

JOHN KURZWEIL

One way to break down reaction to Pete Wilson's presidential candidacy among California Republicans is between those who seem surprised by his having forgotten his pre-re-election pledge to serve a full term and those who are, well, unsurprised. Predictably, the first group includes a larger share of Republicans who had been relatively enthusiastic about Pete's re-election in the first place. They worry about losing the governor's office to a Democrat and seem a trifle shocked and hurt that Pete does not appear to share their concern. The latter group, in which I count myself, generally retain their pre-'94-election belief that Wilson has no national constituency (and, for president, little or no constituency even in California), that his bid will fade, and that it thus presents no threat of a Gray Davis governorship. As for feeling wounded by another instance of Wilsonian perfidy, that would constitute a case of "fool me twice" taken to a power approaching infinity.

But on the premise that anything can happen in politics, Wilson's candidacy merits serious consideration. What does it betoken, for California and for the nation? In the real world context, this presidential bid comes at a time Americans appear finally ready to drop, once and for all, the liberal credo of salvation through government power. They even appear willing, for the first time in many decades, to give serious consideration to the conservative alternative: reliance on oneself and on the traditional voluntary, private institutions of our culture, primarily family and religion, to sustain ourselves not only spiritually, but socially and materially as well. Last year, liberals hoisting old reliable bogeymen found, to their horror, that voters were not scared back into the tent by talk of Republican hard-heartedness, abandonment of the poor, and the tyranny of religious fanatics. After the election, their one, half-hearted attempt to find a scapegoat — that Americans were "angry" and taking it out indiscriminately on everyone in power — fizzled with the news that voters had meticulously spared Republican incumbents nationwide. The Democrats were flatly rejected *per se*, and a clear mandate was given the GOP program: smaller government.

This sea change *could* prove monumental. American 20th century history so far is largely a story of steadily increasing government power at the expense of individual freedom. Tax Freedom Day, for instance — the date we finish working to pay government each year and begin working for

---

John Kurzweil is editor of California Political Review.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Clinton Wilson in '96

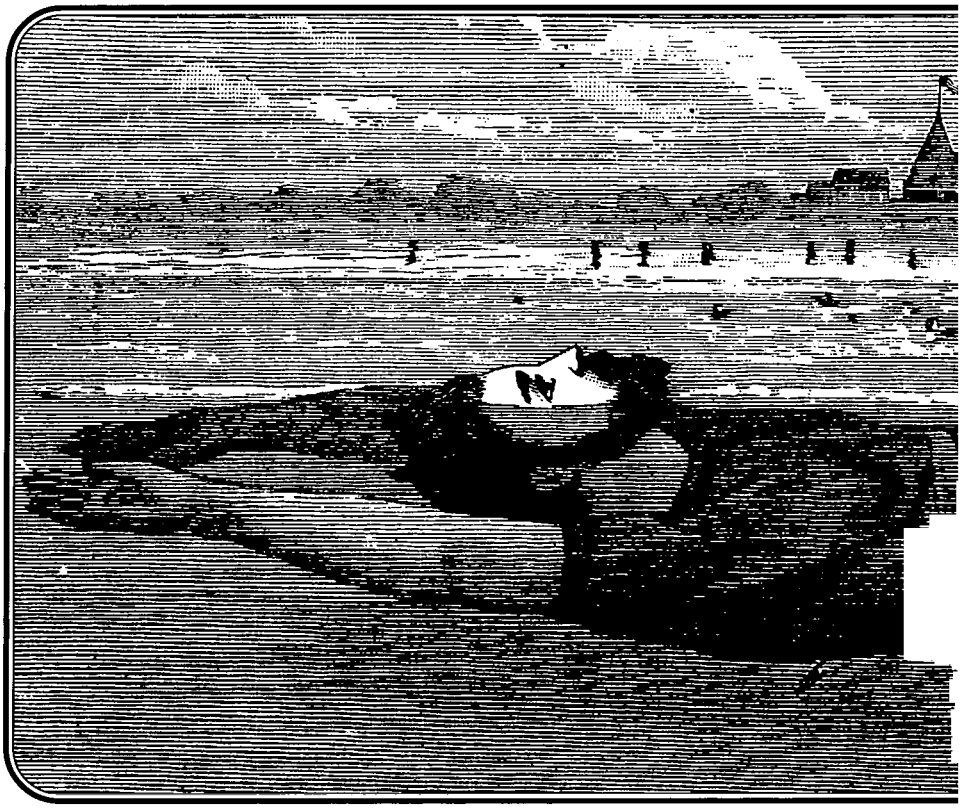
V.M. MOLOTOV

V.M. Molotov, commissar of Foreign Affairs under Stalin and Khrushchev, has been reincarnated as a free-market economist in the hero-city of Agoura Hills, California.

"They love me. They love me not. They love me..." As our beloved Governor Pete Wilson counts sheep by night and holds a wet finger in the air by day, the Nation awaits the Big Decision. Will he run for the presidency, or won't he? Can he parlay California's 54 Electoral College votes into a running mate selection for himself? Will he ignore his promise to the voters to serve his full term as governor? Is he willing to surrender the governorship to Democrat Lieutenant Governor Gray Davis? And were he to throw his hat into the ring, only to have the increasingly conservative California electorate throw it right back; what then?

So this is one of those "tough decisions" that are the stuff of the legend and lore of American politics. But Mr. Wilson actually not need worry: There exists a course of action that satisfies his political needs beautifully, as well as those of another prominent officeholder preparing to blow kisses toward California's voters. Wilson should switch to the Democrat Party and announce immediately his availability as Mr. Clinton's running mate in 1996.

Continued on page 17

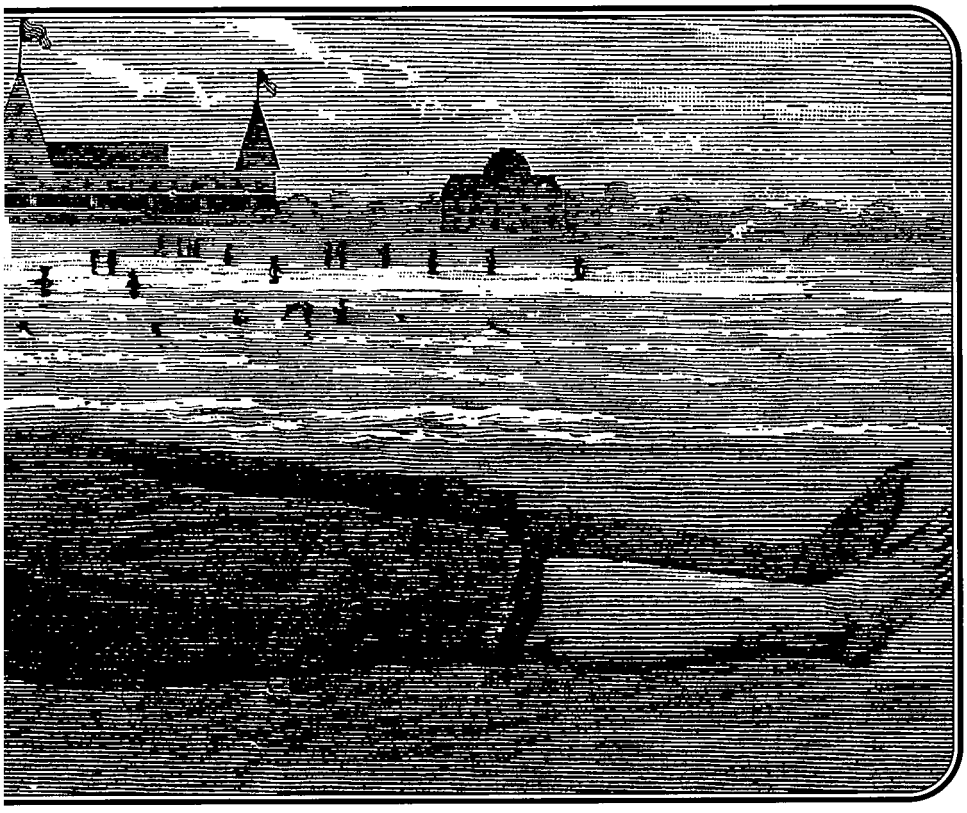


ourselves — has moved more or less steadily down the calendar from January 30, where it stood when the income tax was instituted in 1913, to its present position of May 5. And yet, given the start Newt Gingrich and the House GOP have achieved and the momentum it has generated even in the staid, not to say somnambulent, Senate, we might actually see Tax Freedom Day begin a long-term march back toward New Year's Day.

And in the broader context of world history, we seem to have reached a watershed. From Runnymede and Magna Carta in 1215 to the 18th century of Adam Smith and the American Revolution, western civilization moved toward restraining government power in favor of individual freedom. Tyranny as a dynamic political force resurfaced in the French Revolution and the Napoleonic wars marked the beginning of nearly two centuries of worldwide clashes between these vast, competing movements of modern times, culminating in the Cold War and, finally, the collapse of the Soviet Empire. For a while it seemed the United States Congress would become the world's last major-power outpost of militant obscurantism, bureaucracy, and statism. As of last November, however, that distinction seems to belong more or less solely to American institutions of higher learning.

Now, what has all this to do with Pete Wilson? Not very much, and that's the point. To understand Wilson, the first step is to know that he is largely oblivious to the existence of this titanic struggle between freedom and tyranny. When some aspect of it bumps up against him he usually reacts with a sneer or a yawn; occasionally he denounces the "f***ing irrelevancy" of it all. He is a man for whom politics is purely personal. It is a matter of his

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



career. Good and bad are defined by how they impact whatever personal quest occupies him at the moment. He stands for or against tax increases, tax cuts, tough anti-crime laws, strict border controls, sieve-like border controls, more stringent environmental regulation, less stringent environmental regulation, "gay rights" bills, government spending increases, government spending decreases, and more or less everything else depending on little more than the mood of the particular constituency whose support he seeks at the time. Conservatives learned this about Pete long ago. More recently, as re-election and then presidential political dynamics dictated, erstwhile Wilson allies on the left are learning to live with it as well. A sadder-but-wiser Joel Reynolds, for instance, senior attorney for the Natural Resources Defense Council, lamented recently: "I think whatever sympathy Pete Wilson had for the environment disappeared as he began to focus his sights on the presidency." Close, but the truth is probably even simpler than that: whatever interest Pete Wilson had in doing environmentalists favors disappeared with the fading of their ability to help him advance toward the White House.

The early Wilson campaign has featured two tag lines: first, the governor feels an "obligation" to run, in part because, with the departure of Jack Kemp and Dan Quayle, the remaining GOP field is "light," a condition Wilson believes his entry remedies. Second, his candidacy differs from those of the other candidates because he carries a "message." It is helpful, in deciphering such pronouncements from the governor's inner circle, to bear in mind that they really have no clue regarding the central political controversies of our times. Oh, of course, they know that Republicans talk about "cutting" this and that and

Molotov

Continued from page 16

Think of it. No longer would anyone be able to accuse Wilson of jumping upon whatever bandwagon happens to be popular at the moment; after all, a movement these days from the Republican to the Democrat Party decidedly is opposite the rush hour traffic flow. Instead, by this action he would make clear the central principle upon which he truly stands, indeed, the one upon which he always has stood: Big Government. Until recently, after all, the name Wilson has been synonymous with vast spending growth, higher taxes, more regulation, and, by the way, relaxed enforcement of the work permit laws as applied to illegal immigrants working in California's agricultural fields.

No longer would the term "New Democrat" be a punchline for Jay Leno jokes. The long-buried "New Covenant," redefined by virtue of a Clinton/Wilson union, would become respectable once again. Nor could anyone accuse either Clinton or Wilson of political hypocrisy; in terms of both policy instinct and political opportunism, they are two peas in a pod. Mr. Davis' ascension to the governorship no longer would be a problem. Republican donors might scream, but there are plenty of Democrats willing to loosen their purse strings.

A loss in 1996 easily could be blamed on Mr. Clinton's political weakness, leaving the nomination in the year 2000

Continued on page 18

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Molotov

Continued from page 17

Wilson's for the asking. And should Mr. Clinton win, well, who doubts that the lion's share of the credit would belong to Wilson's delivery of California?

There is the not insignificant matter of Vice-President Al Gore, a man with occasional aspirations toward policy seriousness, however confused at most times. There would be the immediate humiliation due to rejection; but in terms of Mr. Gore's longer term political goals, would rejection by Mr. Clinton really be such a bad thing? Replacement on the ticket would enable Mr. Gore to distance himself from the less salutary parts of the Clinton record, while allowing him to take credit for whatever positive things may prove to have happened during 1993-1996. And — let's face it — is not Mr. Gore by now supremely tired of the State funerals, Bar Mitzvahs, and supermarket openings to which our Veeps are tied both by tradition and by ball-and-chain? And what fun can it be to preside over a Republican Senate?

The appropriate course thus is clear. It is principled. It is courageous. It is politically smart. It would dazzle the voters and the pundits. It would put those benighted right-wingers in their place. It carries no downside. Hence, the true battle cry for Mr. Wilson's governorship: Two More Years!

CPR

vaguely disapprove of things like welfare and gun control, and that Democrats generally take opposite positions. But this they consider little more than barnstorming political rhetoric, necessary and useful in corralling voters on election day, but unrelated to the serious business of "governing," by which they mean holding office and throwing their weight around. They also know that some people really believe the rhetoric, but these they write off as hopeless rubes, "irrelevant," useful idiots, and so on.

Thus, Phil Gramm is a lightweight. His history of leadership in the battle against Big Government — from his co-sponsorship, as a Democrat, of Ronald Reagan's 1981 tax and spending cuts to his early, sustained, decisive opposition to the Clinton health care nationalization plan (while Bob Dole was contemplating compromise with the White House) — counts for little in the Wilson camp. Wilson's own history of avoiding strong stands on issues, such as "Three Strikes" and border control, until the bandwagon is running full tilt helps explain his inability to appreciate the importance to many voters of Gramm's willingness to lead *before* the political pay-off is assured, as he did on health care.

The Wilson "message" is to be one of fairness for "people who work hard, pay their taxes and obey the laws of this country." Emphasizing the point, senior Wilson political advisor George Gorton told the *Los Angeles Times* the campaign "will be message-driven, not organization-driven." Perhaps they mean to draw a distinction with Bob Dole whose strategy appears more designed to take advantage of the Senate Republican Leader's vast national network of friends built up through his many years in politics. Wilson certainly has no support network to compare with it, even in California where his intermittent wars against his own Party have left little room for development of any army of Wilson "grass roots" supporters.

As to the Wilson message, the governor has come a long way since 1991 when, in the early days of the battle to enact his largest state tax increase in American history, he complained bitterly to reporters of "political grandstanders" in the Assembly *Republican* caucus who resisted the plan. Notwithstanding that, or his vehement 1978 opposition to Proposition 13, Wilson this year announced establishment of his campaign exploratory committee inside the offices of the Howard Jarvis Taxpayers Association — no crowd, but plenty of "message." And right now, in Orange County, a high-profile debate over a proposed sales tax increase provides a golden opportunity to show a substantial commitment to match the message of fairness for "people who work hard, pay their taxes and obey the laws of this country." But while Willie Brown has been much in evidence, Wilson has said next to nothing on the subject. Instead, he's been visiting New Hampshire, appearing on "Meet the Press," pursuing a "message-driven" campaign, everywhere but where it counts.

That, too, is the point.

CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Reforming Criminal Justice

A Prospectus

The Liberal Grip on Anti-Crime Loosens Up

(First of Two Parts)

PATRICK ALLYSON SMITH

Fifty-six percent of respondents to a 1994 national Harris Poll taken before the November elections identified crime as America's most serious problem. Last year's initiative campaigns showed that Californians shared this opinion. Simple solutions to crime, however, are not to be found.

While public safety is unquestionably a priority, the most effective means to achieve it are not always easy to discern. And, for that matter, besides safety, fairness to the accused and the integrity of the criminal justice system are equally important considerations. Balancing these factors to produce a socially beneficial result is not easy. Overemphasize public safety and the system risks trampling individual rights — conservatives, above all, know that unrestrained government is a dangerous thing. But overemphasize issues of perceived fairness and risk making the justice system a "toothless tiger" unable to protect the public.

The Chicken or the Egg

For at least 30 years, liberals have offered a simple answer to crime: eliminate its "root causes" — which they identify as poverty, ignorance, racism, and low self-esteem — through a plethora of government transfers, regulations, and public relations campaigns intended to correct these social ills. And certainly, few conservatives would fail to consider societal factors as significant (some would say primary) factors contributing to crime.

But unlike liberals, conservatives looking for "root causes" do not cavalierly ignore the difficult heart of the matter: the state of men's souls and the quality of the moral choices they make. Crime seems more likely rooted in "problems" that rarely yield to such simple solutions as more government money and more bureaucratic social tinkering: family breakdown, the decay of conventional moral values and the rise of moral relativism, the secularization of American society, entitlement dependency, and the abandonment of personal responsibility.

The American people seem to agree. A 1993 Gallup Poll showed a staggering 99 percent of survey participants identified lack of moral training in the home as either a critical or important cause of crime. Eighty-five percent said religion's declining influence was a "critical" or "important" factor in the rise of crime. But can a restoration of religious influence or a re-infusion of moral values be legislated? Liberals like to think government power can reform humanity *en masse*, but experience, and common sense, prove otherwise. Conservatives know we must rely on voluntary public and private efforts to move

Patrick Allyson Smith is a freelance writer living in Californias' Central Valley.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

toward these goals and that a cultural decay that has consumed a generation will require much time and patience to reverse.

But, in the meantime, crime won't wait. Potential victims need protection; actual victims demand justice. And although the law cannot create a healthy moral climate by fiat, it can showby example that society still respects right and condemns wrong. Punishment sends a message; so does failure to punish, especially to young people beginning to wonder whether or not, in fact, crime pays. It also sends a message to those working within the criminal justice system itself. These powerful individuals respond, as we all do,to their environment. Our best protection against abuse by those who enforce our laws is a criminal justice environment in which moral responsibilities are taken seriously, clear distinctions are drawn between right and wrong, and personal accountability, responsibility, and integrity are not only emphasized but demanded.

In California, actual violent career criminals are now far more likely to go away more or less forever.

This all may seem self-evident, but, as any observer of the Rose Bird years at the California Supreme Court or of the Assembly Public Safety committee most of the time under Willie Brown knows, it has been a long time since such an environment prevailed. Bird's exercises in moral confusion were legion. Once, in a fairly typical case, she argued at length that a bank robber who fired five shots, point blank, into a bank guard's chest might only have been trying to induce him into dropping the money he was carrying and therefore we couldn't be sure the murder was "intentional." A chief justice who indulges such blithering idiocy broadcasts the message that the system has lost its moral compass and skipped off the rails, which, of course, in Bird's case, was precisely what had happened. Similarly, the routine killing of virtually all common sense anti-crime legislationin the Assembly Public Safety Committee by liberal ideologues convinced that every crime (except "white collar") is society's, not the perpetrator's fault, created a deformed, twisted system that allowed the guilty to escape justice on technicalities and broadcast a message, again, of a society unsure of its values and doubtful of its own validity, unable to enforce its laws because it could no longer tell the good guys from the bad. Law can no more repeal our moral fabric than it can establish it, but it *can*, and does, influence that fabric's health by example. For many years, especially during the 1970s and '80s, that example was one of moral confusion at best, outright decadence and decay at worst.

Reform has been occurring, slowly, primarily through the ballot box, a haphazard, often counter-productive method, but one made necessary by the ideologues in power. Proposition 8, the Victims' Bill of Rights, passed in 1982. Bird, along with two liberal colleagues, were removed from the Supreme Court by the voters in 1986 — the only sitting appellate justices in California's history of judicial elections thus turned out, which in itself indicates how far off course we had gone.

Proposition 115, the Crime Victims Justice Reform Initiative, in 1990 contributed significant additional reforms. It was followed last year by Proposition 184, the "Three Strikes" Initiative, a milestone in the way California deals with crime. "Three Strikes" (especially in the context of huge Republican gains in the Legislature) also clarified where California now stands on the road of criminal justice reform.

The "Three Strikes" Revolution

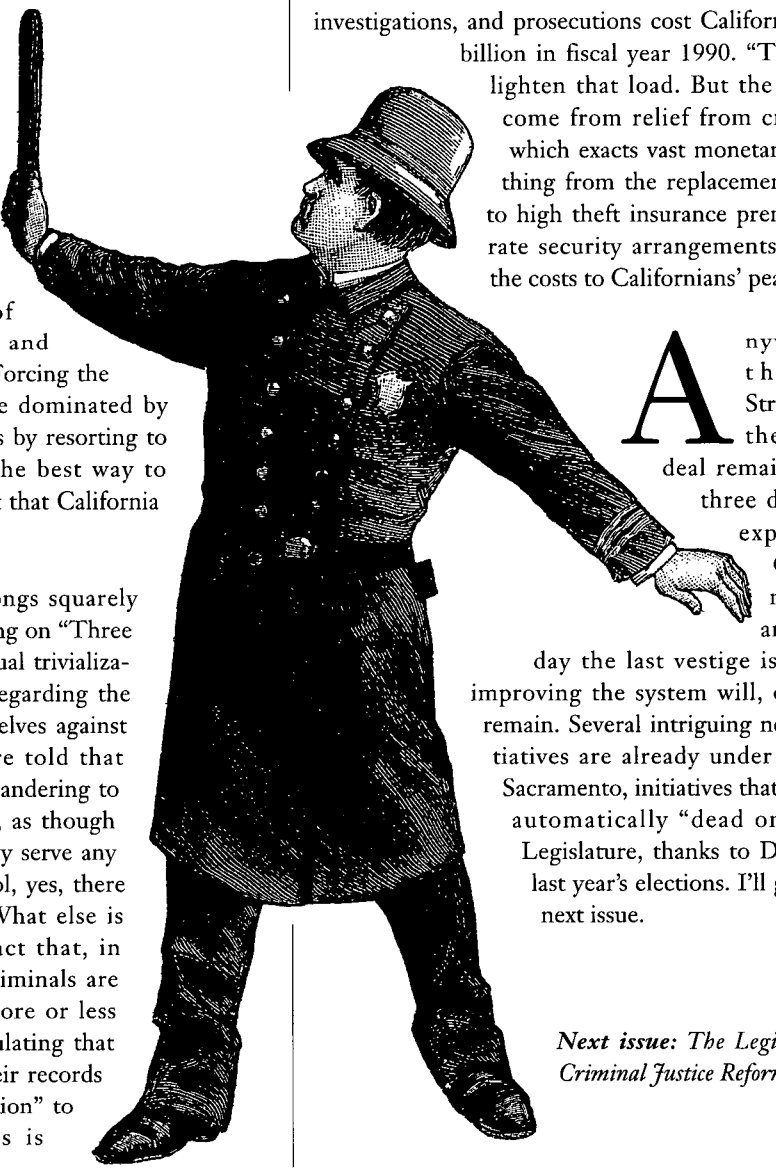
In 1994, the California Legislature finally began to catch up with the people, an event Willie Brown characterized, typically, as bordering on "insanity." For the first time in more than 30 years, our representatives in effect voted to roll back significantly their own previously pro-criminal policies, enacting tough, new legislation designed to restore some teeth to the criminal justice system. Although the "three strikes and you're out" bill was signed into law in March of 1994 by Governor Pete Wilson, the voters, showing the depth of trust they placed in their representatives, passed the law all over again, by a landslide margin, as an initiative in November.

At the very least, "Three Strikes" was a major departure from the 1960s' "root causes" approach to crime. "Three Strikes" rests on the assumption that, because most serious violent crime is committed by a relatively small cadre of recidivist criminals, the only effective means of curbing it involves condemning these criminals to long periods of incarceration. Although most conservatives agree with the principle, some have criticized specific provisions of the "Three Strikes" law

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

now on the books. That law provides that anyone previously convicted of two violent or serious felonies who is then convicted of *any* third felony offense, such as possession of narcotics or petty theft, receives 25 years to life in prison. The critics argue that this provision, as opposed to one applying only to a third serious or violent felony conviction, may produce manifestly unjust results. Suppose, for example, someone committed robberies, once in 1971 and again in 1975, but then lived "straight" for 20 years before being arrested for shoplifting in 1995. Such situations do occur: this example is, in fact, taken from an actual case. Is this individual one of those "career criminals" the public wants shut away for 25 years to life? It seems unlikely.

But advocates of California's "Three Strikes" law argue that such incidents are exceptional. They point out that prosecutors are permitted to file such cases as misdemeanors, eliminating exposure to "Three Strikes." And most California prosecutors have already declared their intention to exercise discretion in invoking the law. "Three Strikes" supporters contend correctly that it now gives prosecutors what the Legislature refused to permit for decades: an effective means of removing criminals with serious and violent legal histories from society. Forcing the people to circumvent a Legislature dominated by narrow-minded, left-wing ideologues by resorting to government-by-initiative is not the best way to operate our system. Whose fault is it that California has arrived at such a point?



Part of the responsibility belongs squarely with the liberal media whose reporting on "Three Strikes" was characterized by the usual trivialization (and almost no illumination) regarding the basic issue: how do we protect ourselves against violent repeat criminals? We were told that "Three Strikes" was mere political pandering to the public's irrational fear of crime, as though political pandering could not possibly serve any rational concern. In the state Capitol, yes, there was political pandering aplenty. What else is new? That doesn't change the fact that, in California, actual violent career criminals are now far more likely to go away more or less forever. Evidence is already accumulating that individuals with two "strikes" on their records may be moving "out of the jurisdiction" to avoid risking strike three. This is happening here, in California, where what the media characterizes as "irrational" voters have finally moved to protect themselves.

While such points are rarely raised, plenty is written about the potential costs of "Three Strikes" and the supposedly devastating consequences of diverting key financial resources away from programs directed at the "root causes of crime." As Rush Limbaugh says: they just don't get it. The "root causes of crime," government-giveaway approach of the 1960s and '70s has proven itself a miserable failure. Crime, particularly in the inner cities where these programs are targeted, has skyrocketed.

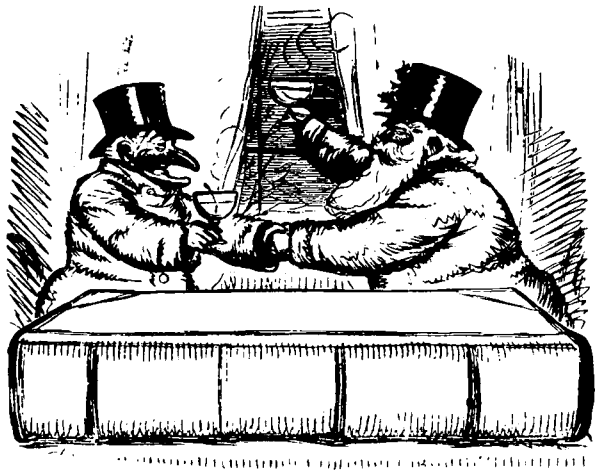
Certainly, the "Three Strikes" approach *is* costly. But those costs must be considered in the context of savings accruing to both public and private sectors when the most serious and violent criminals are taken out of circulation. Multiple arrests, investigations, and prosecutions cost California taxpayers $6.6 billion in fiscal year 1990. "Three Strikes" will lighten that load. But the real savings will come from relief from criminal violence, which exacts vast monetary costs for everything from the replacement of actual losses to high theft insurance premiums and elaborate security arrangements, not to mention the costs to Californians' peace of mind.

Anyway, no one thinks "Three Strikes" is the end of the story. A great deal remains in place from three decades of liberal experiments with California's criminal justice system and even if someday the last vestige is gone, room for improving the system will, of course, always remain. Several intriguing new anti-crime initiatives are already under consideration in Sacramento, initiatives that, for once, are not automatically "dead on arrival" in the Legislature, thanks to Democrat losses in last year's elections. I'll get to them in the next issue.

CPR

Next issue: *The Legislative Agenda for Criminal Justice Reform.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



CRITICUS

Canon Aid

G. B. TENNYSON

Until recently the average person was blissfully unfamiliar with the concept of the literary canon. Academics knew, of course, for it has been the subject of much debate in the academy in recent years. Now the great multitude has been confronted with the issue by the appearance of Harold Bloom's *The Western Canon* and its rise even unto best-sellerdom. This is a work that Criticus suspects is more purchased than read, rather like *The Bell Curve* or that champion of unread best-sellers, *A Brief History of Time*. Regarding these, let me admit that of the three I have read cover to cover and word for word only the last-named, and not because it is by far the shortest, for I am also the only person I know who has read all of its few pages. I can assure those of you feeling guilty about it that you should clear your consciences at once: everything after that first chapter that everyone does finish is utterly incomprehensible and cannot be read with either profit or delight. *The Bell Curve* and *The Western Canon*, though many times longer, each offers greater rewards than Stephen Hawking's book, but they too have their *longueurs* and deserve occasional skimming.

G.B. Tennyson is professor of English at UCLA and co-editor of Nineteenth Century Literature.

Back to the canon. The reason for the huge tome (578 pages) on the subject that Professor Bloom has delivered is that the matter he is talking about is ultimately of profound concern to us all, however pedantic it seems at first glance. To understand the implications, it seems to Criticus that you have to understand the concept of the canon itself. If you already do, you should skip the next two paragraphs, as you would the dull bits in Murray, Bloom, and Hawking, and cut to the chase, which begins immediately thereafter.

The concept of the canon as applied to literature is a borrowing from theology. Some of you will recognize the term from the canon of the Mass, from canon law, from the canonical books of the Bible. All stem from the Latin *canon*, meaning a rule. In literature it was first used to refer to those writings by a given author that were indisputably by that author. The first one in English literature whose works came under this kind of scrutiny was almost certainly Shakespeare because of his stature and the uncertainties surrounding a few of the late plays. Now it is used to refer to any author's unquestioned writings. Some constant readers may be familiar with the current and unseemly

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

squabble about some minor items of the C.S. Lewis canon, which an out-of-patience Criticus is going to have to step in and sort out some day. For that matter there is even a problem with the Criticus canon, such as it is. For Criticus recently happened upon a cache of youthful, unpublished literary effusions thrown up as it were by the earthquake and totally unfamiliar to him, though bearing his name. Who wrote these things, put my name on them, and hid them in my garage, he asked. His canon is thus still in dispute.

Beyond the individual canon, the term canon has come to be applied to the larger body of literature that is generally approved for reading and study in the schools, much as the canonical books of the Bible are held to be the books that one must read because they are the ones authentically inspired by God. In other words, the literary canon is the approved, standard, official reading list of Western culture, the authors and works that most people read in their school years and that most people probably still think are being read by students now: Chaucer, Shakespeare, Milton, Jane Austen, Dickens, and all the rest. For the past two decades or so, such authors and their works have been referred to as constituting the literary canon.

All of the foregoing seems obvious enough, even pedestrian. But that is because the reader doubtless sees the canon as inevitable. The canon critics, however, say otherwise. That is why they applied the term canon to the reading list in the first place, for canon suggests a fixed, unchanging body of writing watched over by a jealous orthodoxy. The literary canon, critics insist, is an instrument of political control and, yes, oppression. They posit something resembling a conspiracy among those vile dead, white, European males, from whom cometh never anything good, to choose certain works for the canon and to suppress others uncongenial to their patriarchal, hegemonic views.

This concept of the literary canon is, of course, utter twaddle. Yes there was a canon, but it pretty certainly was not the result of even a loose conspiracy. It just growed. The very fact that the word was not used in the modern radical sense until the last two decades suggests that there was no awareness of setting an exclusionary list. The further fact that the presumed oppressive canon was always changing and growing suggests that there was much greater openness than canon critics believe ever obtained in the past. Ask a person of a certain age and reasonably thorough education who Joseph Hergesheimer or Ruth Suckow were and it is highly possible that the memory of reading a short story in school by one or the other will surface. But do not ask the same question of the young (even assuming you can find one who was ever assigned anything to read at all), for today those authors have sunk from sight. This is not the result of conspiracy; this is the way the canon has always grown and evolved. The chief casualties are always recent writers who have their day and then fade. That is why until well into the 1950s, Merton College, Oxford, ceased instruction in English literature with the modern period, which they defined as beginning in 1830. Yes, that's *1830*. Ah, the good old days.

What the canon busters want is in fact what they claim was the power of earlier canon makers onto whom they have projected their own totalitarian lusts. They want the right to determine the canon themselves. And their criteria are always political. The canon must reflect diversity, and by now everybody knows what that threadbare code word stands for. It certainly isn't aesthetic merit, a concept held in absolute derision by the would-be remoulders of the canon. It is more like Affirmative Action as applied to the reading list. You may recall the recent howlings from the self-appointed keepers of culture when Saul Bellow asked something to the effect of where was the Mozart of Melanesia or the Chartres on the Congo. Bye, bye, Bellow. You are unlikely to find him in the Brave New Canon of the future.

It would be nice here to have a blare of trumpets and proclaim, Enter Harold Bloom! But it would be somewhat misleading. Bloom is not the lone battler for the traditional canon that his book portrays him as being. He doesn't even believe in the philosophical and religious underpinnings that make the canon the canon. Neither, I fear, did the late Allan Bloom who caused such a glow of satisfaction on the right and stirred such anger on the left with his *Closing of the American Mind;* and that is the fatal weakness of both Blooms' books. It is also another story.

For we must gather our flowers where they sprout, and if they are imperfect, at least they are in bloom and more beautiful than the weeds on every hand. Whatever his faults, Harold Bloom is currently the most distinguished of the defenders of the traditional canon. Most of his book is devoted to a defense of his signature thesis (the "anxiety of influence") and to his own encounters with a group of major literary figures, though in encountering them, juxtaposing them, examining them in his own sometimes idiosyncratic way, he does in fact make a strong case not only for the traditional canon but for the way it has arisen, that is, not by fiat from some self-appointed radical academic oligarchy but from the interplay of countless readers through the ages.

It is this point more than the specifics of Bloom's book that deserves our attention. The remakers of the canon want to remake history and they want to shape the minds of the future in their own calibanic image. In the many lists of canons that take up Bloom's appendix and that have generated much of the interest in his book the often gloomy Bloom strikes an optimistic note. He believes the canon will continue to be shaped as it has been in the past, that the currently fashionable figures that the new canonists would

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

substitute for the standard ones will come to be seen as "period pieces." He even dares to risk the wrath of the righteous by holding in appropriate contempt the great bulk of contemporary women and black writers as second rate: "I have resisted," Bloom writes in explaining his choice of canonical authors for the Democratic Age, "the backward reach of the current canonical crusades, which attempt to elevate a number of sadly inadequate women writers of the nineteenth century, as well as some rudimentary narratives and verses of African-Americans." (There is actually worse than this, probably unknown to Bloom: some academics seriously demand, in the absence of any written literature, that Indian war chants be included in the study of nineteenth-century American literature as equal with Hawthorne, Thoreau, Emerson, Melville, and Twain.) Later, Bloom writes: "Nearly everything that has been discovered or revived by Feminist and African-American literary scholars falls all too precisely into the category of 'period pieces,' as imaginatively dated now as they were already enfeebled when they first came into existence." You have to be ensconced as the Sterling Professor of English at Yale on the verge of retirement before you can say that and get away with it. Which is why Bloom is useful.

As for his expressed conviction that the future of the canon rests with real readers unlikely to be moved by the nonsense of period-piece enthusiasts, we must hope that Bloom is right. But titling his final chapter "Elegiac Conclusion" and expressing his belief that the study of literature in the university is on the verge of the same fate as befell the study of classics (with which sentiment Criticus is in full agreement, for the academic business of literature is doomed) makes Bloom's hope that there will be a future canon determined by real readers sound more like whistlin' "Dixie" in the cemetery than like the "Battle Hymn of the Republic."

Recently the Modern Language Association issued a dubious survey claiming that the traditional authors still formed the basis of instruction in colleges throughout the country. The apparent purpose of this revelation was to allay fears of parents that their college-going children were being assigned to read contemporary trash instead of Shakespeare, which of course they are. The survey assured us that 80 percent of the responding faculty reported that Shakespeare was definitely on the reading list at their schools. Only academics could think that is a reassuring statistic. Even apart from the unconfronted question of *how* Shakespeare is taught (in many places as a dead, white, European male suffering from false consciousness), we may well ask, what else is on the reading list, and what in canon's name is being taught in the 20 percent of schools that didn't mention Shakespeare at all? Here emit a low groan, then hark to a doleful voice sighing: Maya Angelou.

So what's a parent to do? Well, you can no longer trust colleges and universities. They are in the grip of the tenured radicals and those too cowed to oppose them and only hanging on for retirement's sake. There is but one remedy, namely that of the gentlewoman ungraciously treated in a shop: withhold your custom. Or in common American, don't buy the junk anymore. Find a place that offers value for money, or canon for tuition, and patronize it. Otherwise, prepare to be uncanonized.

CPR

Willie Brown Question — Competition Extended

Several entries having arrived just before this competition's original April 1st deadline, Dr. Tennyson has authorized an extension to July 1st, 1995. Therfore, CPR announces, for the second time:

The Willie Brown Question: A Literary Competition

Entries, covering no more than one standard 8.5 x 11-inch page, type-written, shall address the question: Willie Brown — The Phoenix-like Genius, as portrayed by the pillars of objectivity in the political press, or just another egocentric has-been who doesn't know when to quit?

Entries will be considered in three categories, with winners selected from each. First — Poetry: address the W.B. Question in the style, rhyme, and metre of Dylan Thomas's "Do Not Go Gentle into That Good Night."

Second — Short essay: plumb the quandary's depths in the manner either of William F. Buckley, Jr., preparing a column or, for those up for a real challenge, in the nonpareil mealy-mouthed, sleep-inducing, West-side liberal feel-good prose of a Los Angeles Times editorial!

Third — Political Campaign Ad Copy: sell either (a) the people on the W.B.-as-genius line or (b) the former speaker on the delights of leisurely retirement, anywhere but in Sacramento.

All entries must be received by July 1st, 1995. Accent humor. Sole judge of all submissions will be Criticus, so address them to him as follows:

California Political Review's Willie Brown Question
Attention: G. B. Tennyson
P.O. Box 931
Camarillo, CA 93011-0931

If Professor Tennyson concludes the world is ready, winning entries will be printed in CPR's Fall issue. Now, to work! Rescue his faith! Show the world California's creative soul!

— John Kurzweil

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

BOOKS

The Death of Common Sense:

How Law is Suffocating America

by Philip K. Howard, Esq.,

Random House, New York, 1995
187 pages, $18, cloth.

Reviewed by David F. Faustman

The son of a preacher in Appalachian Kentucky, and now a practicing New York lawyer, Philip Howard has combined his no-nonsense roots with his sophisticated education, the experiences of his vocation, and an insightful grasp of modern culture to produce a provocative little book, certain to become a favorite among conservative foes of irrational government in Sacramento and Washington. His thesis is simple and easily embraced by all but the most ardent defenders of big government: Modern law (bureaucratic and judicial) has almost completely abdicated common sense in favor of (1) "rules" with which we cannot comply because they are so complicated and voluminous, and (2) "rights" that we angrily hurl at one another with absolutist fervor and without regard to the cost to other individuals and to society in general. The "lights that guide us" as citizens in a democracy, as Tocqueville warned, are in danger of dimming as we lose our capacity to recognize and react to the fact that our institutions are mired in pure nonsense. For example:

• Environmental officials required an oil refinery to spend more than $30 million to filter benzine from its smokestacks. The real source of benzene emissions was not the smokestacks, however, but the docks where barges are loaded — a problem easily and inexpensively solved by replacing pump nozzles. The smokestack rule, according to Howard, "was almost perfect in its failure." It "maximized the cost" to a business "while minimizing the benefit to the public."

• Mother Teresa and the nuns of the Missionaries of Charity wanted to renovate a four-story building in the Bronx to provide shelter for 64 homeless men. Modern building codes that require automatic dishwashers and elevators caused Mother Teresa to give up. "No person decided to spite Mother Teresa," Howard writes. "It was the law, and what it required offends common sense."

• OSHA requires "poison" signs to be posted near piles of sand; in California, perfunctory and virtually unread Proposition 65 warnings abound, purporting to inform us of the hazards of modern society. When we are warned that practically everything is hazardous, we stop listening. Many of these warnings defy common sense.

• A church in Harlem struggled for four years to get approval for a Head Start program, most of the time spent arguing with bureaucrats about the dimensions of rooms in a renovated building. "An entire generation of Head Starters missed the facility," Howard writes. "The people in Washington didn't seem too interested in common sense."

• In 1992, the Chicago River broke through an old railroad tunnel flooding the basements of downtown buildings and causing billions of dollars in damage. Chicago bureaucrats who knew the tunnel had been leaking for weeks, and who had the authority and the ability to fix it immediately, were preparing the bureaucratic paperwork to take competitive bids when the ceiling collapsed. Such things happen, Howard's book argues, when common sense is replaced

David F. Faustman is an attorney and commentator on legal and economic issues.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

by a regime where "ordinary decisions are subject to rigid formalities taken as seriously as the due process protection in a criminal trial."

• *Disability laws require employers* and proprietors to spend millions on rarely used wheelchair ramps, electronic lifts, and handicapped parking spaces virtually without regard to the cost.

• "Homelessness" is partly a function of a lack of "homes" at the low end. The market should respond, but it can't. Irrational land use regulation and government permitting exactions add $40,000 to the cost of a home in California. Cadillac building codes and "construction defect litigation" predators make it impossible to build low cost housing.

• Irrational air quality regulations have driven entire industries — *e.g., furniture manufacturing* — out of California at a cost of thousands of jobs.

• Scores of homes burned down in the Laguna Hills fires because owners could not clear brush lest they offend the habitat of kangaroo rats. Incidentally, the rats, and their habitat, also burned in the fire.

Howard cites hundreds of examples of such nonsense, and attributes them all to our suffocating legal system. How have we allowed the legal system — the arrogance of bureaucrats and the capriciousness of judges and juries — to so corrupt our economic and social lives? As a starting place, Howard suggests that "the tension between legal certainty and life's complexities was the primary concern" of well meaning "reformers" beginning with Oliver Wendell Holmes who advocated the codification of common law.

Later, "New Dealers" and "Great Society Reformers" expanded this regulatory role of government. "Precision became the goal. The idea of lawmaking was to anticipate every situation, every exception and codify it." The Federal Register grew from 15,000 pages in 1960 to 70,000 pages in 1990. "No tax auditor, no building code examiner can possibly know all the rules in thick government volumes. What good is a legal system that cannot be known?" Howard reasons that "this accretion of law has given bureaucrats almost limitless arbitrary power." Thus, "law has replaced humanity," the "process" has become the "product" of government, and "the buck never stops." We have not achieved "certainty and fairness"; we have merely created "endless opportunities for smart lawyers seeking angles and advantages". The author laments that the "rest of us feel like law's victims" and that we "divert our energies into defensive measures to avoid tripping over the rules".

In Howard's world, government is not inherently a threat to liberty...

Howard also argues cogently that we have become "a nation of enemies" as "rights" have proliferated. These rights are often, intentionally or otherwise, a form of subsidy, "provided at everyone else's expense, but the check is left blank." The language and art of compromise in a democracy are lost when "rights" are at stake. For example, public schools are required by the Disabilities Education Act to spare no expense in attempting to educate medically certifiably uneducable children. A perverse proliferation of employment discrimination laws beyond the Civil Rights Act of 1964 has succeeded in "protecting" more than 70 percent of American workers. Employees, thus, now have the power to invoke a costly and often irrational government process known as litigation. The author asserts that transforming employees into litigation on the hoof has hardly ushered in the "new age of harmony and understanding in the workplace" intended to result from the comprehensive codification of "rights." He suggests, on the contrary, that employment discrimination rules ultimately hurt those whom the laws were intended to protect.

Now, Howard writes, we find that "a paranoid silence has settled over the workplace" in which "only a fool says what he really believes ...." Instead of opening up opportunities, the litigation minefield has given employers a "dread of living under the cloud of discrimination sensitivity and [a] lurking fear of potential charges [that] often act as an invisible door blocking any but the most ideal minority applicant."

Howard is masterful and entertaining in describing the problem. The book falls short, however, in articulating a solution. There are no villains in Howard's plot. Everyone is well meaning; we have simply wandered into this mire. In Howard's world, government is not inherently a threat to liberty; legislators are not self centered, corrupt, and stupid; bureaucrats are not banal and inept; organized trial lawyers do not hand out bales of cash in our capitals; public employee unions are not dedicated to controlling the supply and the demand for their members' services; Judges are not governed by the twin evils of cronyism and activism. Howard simply suggests that "a return to principles" will be enough to extricate us from this mess. How we accomplish such a "return" is not explained. Common sense, however, suggests that something more than a mere evocation of "principles" may also be in order — perhaps a little exchange between the halls of government and the streets. Another American writer, Thomas Paine, invoked "Common Sense" in the mid-1770s, and helped to invigorate the "principles" found in the Declaration of Independence. Howard may do the same with "The Death of Common Sense."

CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Curing World Poverty

The New Role of Property

Edited by John H. Miller, C.S.C., S.T.D.,

editor *Social Justice Review*,

published by *Social Justice Review*, St. Louis, Missouri, 1995

301 pages, $15, cloth.

Reviewed by Peter Hannaford

John Miller, editor of *Curing World Poverty*, wastes no time stating the book's premise. In the preface, he writes, "There is a workable means of effectively combatting poverty, and this is not through a redistribution of past wealth accumulations, but through the expansion of future ownership and profit-sharing opportunities among working people, and their educated participation in management and shareholder decisions." He also quickly makes it clear that there is only a limited role for the state in this process: "The more the state interferes in the lives of its citizens, the bigger it gets and the more wasteful it becomes."

He and his fellow authors of this collection of essays set out to prove both statements in a book that grew out of a seminar conducted in late 1991 in Rome by the Center for Economic and Social Justice for members of religious communities that had missionaries in the Third World. Central to the book is the work of the late Louis Kelso, longtime advocate of "expanded ownership" whose best-known "invention" is the ESOP: employee stock ownership plan. Kelso, along with his wife Patricia Hetter Kelso, later developed variations on the basic concept to fit nearly any situation, including that of impoverished Third World workers.

Kelso spent much of his long life arguing tirelessly that credit is the key to ownership and that there were two kinds: unproductive and productive credit. The former is spent on goods and services to be consumed; the latter, capital credit, is used to acquire wealth-producing assets that generate income with which to repay the borrowed money, then to build a personal estate. The Kelsos expand on this in their essay: "Uprooting World Poverty: A Job for Business."

Until ESOPs took hold in the United States (by means of favorable inclusion in a 1973 tax bill engineered by then-Senator Russell Long who made common cause with Kelso), capital credit was only available to people and organizations already endowed with assets — collateral. The average worker could only buy shares of stock by saving up the money, more or less a dollar at a time.

ESOPs recognized that in an increasingly capital-intensive world, workers needed to derive part of their income from capital; not just from their labor. In its basic form, the ESOP is a trust formed by the employees of a company. The trust borrows money from a bank or other lender to buy stock

Continued on page 28

Peter Hannaford is a Washington-based public affairs consultant and co-author of the new book Remembering Reagan.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in the company, pledging its stock as collateral. The loan is paid back from dividends (typically over three to five years). After that, the dividends are credited to the worker-owners, leading to the creation of many sizeable retirement nest eggs over time.

Favorable tax treatment of ESOPs has made them increasingly popular. By 1993, there were some 10,000 in the United States, involving 11 million workers and total asssets of more than $60 billion. The biggest employee-owned ESOP companies today are United Airlines and Avis, the car rental company.

In her essay, "Capital Credit: the Ultimate Right of Citizenship," Kathy V. Friedman points out the irony that "...it is not people, through their work, that are major producers of national wealth. It is technology. Therefore, we have taxed technology and redistributed wealth that flowed *from* it to those whose *work participation* was replaced by it." Economic participation, she writes, for many people has been replaced by administrative participation — as clients of various welfare and "entitlement" programs.

In the former communist countries, where the state owned everything, and in countries where a small owning class has long controlled most of the productive assets, wide diffusion of ownership through ESOPs and ESOP-like credit devices can be achieved, this book asserts. In fact, it can be the key to successful privatization, currently both popular and imperative in many parts of the world.

In an article in *The American Spectator* ("Missionary Capitalism," December 1993), William McGurn told of the success of the Opportunity Programs, run by two organizations, one American, the other Australian. They practice expanded ownership on a micro scale, setting up neighborhood credit committees to determine if local entrepreneurial applicants should be granted small loans. The loans are in the $25 to $500 range and are repaid with interest. In 1992, the program succeeded in creating or saving 33,000 jobs on loans aggregating $6.6 million.

"The more the state interferes in the lives of its citizens, the bigger it gets and the more wasteful it becomes."

This scale works for a noodle shop or a bicycle repair shop, and one hopes it will be expanded throughout the whole world, but what of the state-run airline or steel mill? Typically, these companies have been money-losers because they were not held accountable for efficiency and economic operation.

A recent newspaper article about privatization in South Africa notes that the African National Congres, the majority party, has undergone a change of heart aobut the subject.Worried that parastatal companies, if privatized, would result in more concentration of wealth in a few hands, the ANC had long resisted the movement. Now, however, it says it wants to sell what it calls "unproductive state assets" to raise needed funds for its ambitious social development program. If the population's expectations are to be fulfilled, many new schools, hospitals and other facilities must be built in the next few years.

Thabo Mbeki, deputy president of South Africa, recently endorsed privatization as government policy. In the same announcement, however, there was no indication of doing this through worker ownership by means of ESOPs or similar credit devices. If South Africa were to adopt expanded ownership techniques of this sort, the results would almost certainly be positive, as they have been with most U.S. ESOPs. Worker-owners, mindful that it is their money at stake, invariably vote for efficiency over inefficiency, and company productivity shoots up. South Africa already has the best infrastructure on the continent south of the Sahara. With major industries owned by its workers, it could be a dynamic model for many other countries in the region.

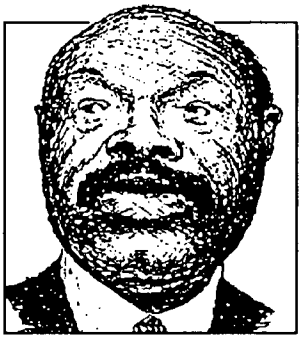
As is often the case with collections of essays, there is overlap among the chapters of *Curing World Poverty*. Nevertheless, its bottom line is clear enough: World poverty can be cured if governments and individuals will set aside old formulas that don's work and look to new uses of capital to make poor workers prosperous ones. Initially, ESOPs and their like won't help the unemployed, but their widespread use, several of the authors tell us, will make national economies more efficient and expansive. That in turn, will reduce unemployment. As Norman G. Kurlad and Michael D. Greaney point out in their essay "The Third Way," "By making productive credit available on a truly democratic basis, society moves people toward economic self-sufficiency and independence."

CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

NO SACRED COWS!

Gov. Pete Wilson



Willie Brown

Dianne Feinstein

Barbara Boxer

Only one monthly publication in California specializes in a take-no-prisoners, no-holds-barred-style of investigative reporting on government, politics and public policy issues from a conservative perspective. That publication is Joseph Farah's INSIDE CALIFORNIA.

But don't believe our hype. Read our record:

- ☑ When Assembly Speaker Willie Brown ignored state law and tried to hide public records on the funding of his Education Summit, ***Inside California*** sued him and other state officials.
- ☑ When ***Inside California*** exposed a sitting Assemblywoman as a committed, fire-breathing, radical socialist in the Angela Davis mode, we were threatened with a lawsuit ourselves. But she found out truth is an absolute defense.
- ☑ When former Superintendent of Public Instruction Bill Honig got behind a plan to turn schoolchildren into liberal political activists, ***Inside California*** exposed the scam.
- ☑ When the Education Department tried to turn the CLAS test into a state secret, ***Inside California*** was the only publication in California to publish an entire test.
- ☑ When Sen. Dianne Feinstein pushed the Desert Protection Act, ***Inside California*** showed how it would directly benefit one of her biggest political contributors.

Voter fraud, waste in government, corruption, hypocrisy — we expose it all, no matter who the perpetrators are, from Gov. Pete Wilson to Sen. Barbara Boxer. We're an equal-opportunity, bi-partisan muckraker.

Free trial offer!

Call us right now, and we'll send you our next three issues of ***Inside California*** absolutely free and at no risk! If you decide not to subscribe, just return our invoice marked "cancel." If you decide to subscribe — and we're betting you will — you'll pay only $24.95 for a full year!

Free gift!

But, if you call us right now, and use your Visa of MasterCard to order a full year's subscription of ***Inside California*** for only $24.95, we'll send you a FREE GIFT — a handy guide to the California Legislature and the U.S. Congress.

Call today!

Don't wait. These prices and this offer won't last. In fact, it will never be repeated again — anywhere! *Call:*

1-800-398-2225

Inside California
P.O. Box 2450
Fair Oaks, CA
95628

* *Political caricatures by staff artist Terri Bates 1995*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

WHO DO YOU CALL WHEN THE BUDGET IS TIGHT, THE PIECE IS CRITICAL, AND THE DEADLINE WAS YESTERDAY?

The Monaco Group can make it all happen and does. Political campaign and fund-raising printing and direct mail require a special expertise that only a few can provide with budget oriented prices, quality service and production along with the quick turn around needed to make success happen.

Experience the difference expertise makes. With over 10 years experience providing political campaign and fund-raising production services, there is no learning curve, therefore every critical minute can be spent producing the job instead of explaining it.

Service doesn't mean only getting the job done, it encompasses all aspects of a project. From the availability of targeted statewide voter files, to the creation of art, to print production and mailing of the piece, you get the best quality, prices and service in the industry.

Getting the job done is what we are here for. No isn't in our vocabulary. Representing a wide range of vendors, you no longer have to worry about scheduling fiascoes associated with being tied to one production source. We are here to do what it takes.

Your One Source for:

- ✓ **Laser Personalization** for absentee ballots, letters, grams, slates & other personalized communications.
- ✓ **Sheetfed or Web Printing,** large job or small, The Monaco Group has the resources to produce your job on time & at the lowest possible cost.
- ✓ **Unsurpassed Lettershop & Mailing Capabilities**
- ✓ **Hard to find Premiums...** bumper stickers, magnets, pot holders & many more!
- ✓ **Envelope Printing & Converting.**
- ✓ **Statewide Voter Files Available.**
- ✓ **All Your Direct Mail Needs & More.**

PRINTING. PERSONALIZATION, AND MAILING FOR POLITICAL CAMPAIGNS AND FUND-RAISING

THE MONACO GROUP

1742 NORTH CASE ST.
ORANGE, CA 92665
TEL: 714 283-7120
FAX: 714 283-7129

THE MONACO GROUP

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED